

# HOUSE BILL No. 1287

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-21.5-3-6; IC 23-15-8; IC 24-4.4; IC 24-4.5; IC 24-7-7-2; IC 28-1; IC 28-5-1-8; IC 28-7; IC 28-8; IC 28-10-1-1.

**Synopsis:** Financial institutions and trade regulation. Makes various changes to the laws concerning: (1) first lien mortgage lenders; (2) persons licensed under the Uniform Consumer Credit Code; (3) rental purchase agreements; (4) debt management companies; (5) financial institutions; (6) pawnbrokers; (7) money transmitters; and (8) check cashers. Repeals a provision providing an alternative regular reserve formula for certain credit unions.

**Effective:** July 1, 2015.

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**Burton, Moed, Riecken**

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January 13, 2015, read first time and referred to Committee on Financial Institutions.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1287

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A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 4-21.5-3-6, AS AMENDED BY P.L.153-2011,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 6. (a) Notice shall be given under this section  
4 concerning the following:  
5 (1) A safety order under IC 22-8-1.1.  
6 (2) Any order that:  
7 (A) imposes a sanction on a person or terminates a legal right,  
8 duty, privilege, immunity, or other legal interest of a person;  
9 (B) is not described in section 4 or 5 of this chapter or  
10 IC 4-21.5-4; and  
11 (C) by statute becomes effective without a proceeding under  
12 this chapter if there is no request for a review of the order  
13 within a specified period after the order is issued or served.  
14 (3) A notice of program reimbursement or equivalent  
15 determination or other notice regarding a hospital's



reimbursement issued by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning regarding a hospital's year end cost settlement.

(4) A determination of audit findings or an equivalent determination by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning arising from a Medicaid postpayment or concurrent audit of a hospital's Medicaid claims.

(5) A license **suspension or** revocation under:

(A) IC 24-4.4-2;

(B) IC 24-4.5-3;

(C) IC 28-1-29;

(D) IC 28-7-5;

(E) IC 28-8-4; or

(F) IC 28-8-5.

(6) An order issued by the:

(A) division of aging or the bureau of aging services; or

(B) division of disability and rehabilitative services or the bureau of developmental disabilities services;

against providers regulated by the division of aging or the bureau of developmental disabilities services and not licensed by the state department of health under IC 16-27 or IC 16-28.

(b) When an agency issues an order described by subsection (a), the agency shall give notice to the following persons:

(1) Each person to whom the order is specifically directed.

(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party in the record of the proceeding.

(c) The notice must include the following:

(1) A brief description of the order.

(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.

(3) Any other information required by law.

(d) An order described in subsection (a) is effective fifteen (15) days after the order is served, unless a statute other than this article specifies a different date or the agency specifies a later date in its order. This subsection does not preclude an agency from issuing, under IC 4-21.5-4, an emergency or other temporary order concerning the subject of an order described in subsection (a).



(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 23-15-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) If the department of financial institutions determines that a business entity has violated IC 28-1-20-4, the department of financial institutions shall notify the secretary of state of the violation.

(b) The secretary of state shall commence a proceeding under this section to administratively dissolve a business entity if:

(1) the name of the business entity contains the word, **or a derivation of the word, "bank", "banc", or "banco", or "bankcor"**; and

(2) the department of financial institutions determines that the business entity violates IC 28-1-20-4.

(c) If the secretary of state commences an administrative dissolution under subsection (b), the secretary of state shall serve the business entity with written notice of the determination under subsection (b)(2). The secretary of state shall, at the same time notice is sent to the business entity, provide a copy of the notice to the department of financial institutions.

(d) If a business entity that receives a notice under subsection (c) does not:

(1) correct the grounds for dissolution; or

(2) demonstrate to the reasonable satisfaction of the department of financial institutions that the grounds for dissolution do not exist;

at any time after sixty (60) days after service of the notice is perfected, the department of financial institutions shall notify the secretary of state in writing of the continuing violation. After receiving the written notice from the department of financial institutions, the secretary of



1 state shall administratively dissolve the business entity by signing a  
 2 certificate of dissolution that recites the grounds for dissolution and the  
 3 effective date of the dissolution. The secretary of state shall file the  
 4 original certificate of dissolution and serve a copy of the certificate of  
 5 dissolution on the business entity.

6 (e) A business entity administratively dissolved under this section  
 7 may carry on only those activities necessary to wind up and liquidate  
 8 the business entity's affairs.

9 SECTION 3. IC 23-15-8-5 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. Dissolution under  
 11 this section is in addition to any penalties imposed upon the business  
 12 entity **by under IC 28, including** IC 28-1-20-4(j).

13 SECTION 4. IC 24-4.4-1-102, AS AMENDED BY P.L.137-2014,  
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2015]: Sec. 102. (1) This article shall be liberally construed  
 16 and applied to promote its underlying purposes and policies.

17 (2) The underlying purposes and policies of this article are:

18 (a) to permit and encourage the development of fair and  
 19 economically sound first lien mortgage lending practices; and

20 (b) to conform the regulation of first lien mortgage lending  
 21 practices to applicable state and federal laws, rules, regulations,  
 22 policies, and guidance.

23 (3) A reference to a requirement imposed by this article includes  
 24 reference to a related rule of the department adopted under this article.

25 (4) A reference to a federal law in this article is a reference to the  
 26 law as in effect December 31, ~~2013~~ **2014**.

27 SECTION 5. IC 24-4.4-1-202.5, AS ADDED BY P.L.35-2010,  
 28 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2015]: Sec. 202.5. (1) If a person licensed or required to be  
 30 licensed under this article also engages in the loan brokerage business,  
 31 the person's loan brokerage business is subject to the following sections  
 32 of the Indiana Code and any rules adopted to implement these sections:

33 (a) IC 23-2-5-9.

34 (b) IC 23-2-5-9.1.

35 (c) IC 23-2-5-15.

36 (d) IC 23-2-5-16.

37 (e) IC 23-2-5-17.

38 (f) IC 23-2-5-18.

39 (g) IC 23-2-5-18.5.

40 (h) IC 23-2-5-20.

41 (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).

42 (j) IC 23-2-5-24.



(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under this article are subject to examination by the department and to the examination fees described in ~~IC 24-4.4-2-402(7)(c)~~. **IC 24-4.4-2-402(8)(c)**. The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

SECTION 6. IC 24-4.4-2-404, AS AMENDED BY P.L.27-2012, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 404. (1) The department may issue to a person licensed as a creditor to engage in first lien mortgage transactions an order to show cause why the person's license should not be revoked or suspended for a period determined by the department.

(2) An order issued under subsection (1) must:

(a) include:

- (i) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;
- (ii) a description of the action contemplated by the department; and
- (iii) a statement of the facts or conduct supporting the issuance of the order; and

(b) be accompanied by a notice stating that the licensee is entitled to:

- (i) a reasonable opportunity to be heard; and
  - (ii) show the licensee's compliance with all lawful requirements for retention of the license;
- at the meeting described in subdivision (a)(i).

(3) After the meeting described in subsection (2)(a)(i), the department may revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

- (i) this article or any **applicable** rule, order, or guidance document adopted or issued by the department; or
- (ii) any other state or federal law, regulation, or rule applicable to first lien mortgage transactions;

(b) the licensee does not meet the licensing qualifications contained in section 402 of this chapter;

(c) the licensee obtained the license for the benefit of, or on behalf of, another person;

(d) the licensee knowingly or intentionally made material



misrepresentations to, or concealed material information from, the department; or

(e) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

(a) the revocation or suspension;

(b) if a suspension has been ordered, the duration of the suspension;

(c) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and

(d) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license as a creditor to engage in first lien mortgage transactions may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it to be in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

(7) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any preexisting lawful contract.

(8) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 7. IC 24-4.4-3-104, AS AMENDED BY P.L.216-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 104. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

(a) Training, operating, and policy manuals.



1 (b) Minutes of:

2 (i) management meetings; and

3 (ii) other meetings.

4 (c) Financial records, credit files, and data bases.

5 (d) Other records that the department determines are necessary to  
6 perform its investigation or examination.

7 The department may also administer oaths or affirmations, subpoena  
8 witnesses, and compel the attendance of witnesses, including officers,  
9 principals, mortgage loan originators, employees, independent  
10 contractors, agents, and customers of licensees, and other individuals  
11 or persons subject to this article. The department may also adduce  
12 evidence and require the production of any matter that is relevant to an  
13 investigation. The department shall determine the sufficiency of the  
14 records maintained and whether the person has made the required  
15 information reasonably available. The records concerning any  
16 transaction subject to this article shall be retained for two (2) years  
17 after the making of the final entry relating to the first lien mortgage  
18 transaction, but in the case of a revolving first lien mortgage  
19 transaction the two (2) year period is measured from the date of each  
20 entry.

21 (2) The department's examination and investigatory authority under  
22 this article includes the following:

23 (a) The authority to require a creditor to refund overcharges  
24 resulting from the creditor's noncompliance with the terms of a  
25 first lien mortgage transaction.

26 (b) The authority to require a creditor to comply with the penalty  
27 provisions set forth in IC 24-4.4-2-201.

28 (c) The authority to investigate complaints filed with the  
29 department by debtors.

30 (3) The department shall be given free access to the records  
31 wherever the records are located. In making any examination or  
32 investigation authorized by this article, the director may control access  
33 to any documents and records of the licensee or person under  
34 examination or investigation. The director may take possession of the  
35 documents and records or place a person in exclusive charge of the  
36 documents and records in the place where the documents are usually  
37 kept. During the period of control, a licensee or person may not remove  
38 or attempt to remove any of the documents and records except under  
39 a court order or with the consent of the director. Unless the director has  
40 reasonable grounds to believe the documents or records of the licensee  
41 or person have been, or are, at risk of being altered or destroyed for  
42 purposes of concealing a violation of this article, the licensee or person





1 shall have access to the documents or records as necessary to conduct  
 2 the licensee's or person's ordinary business affairs. If the person's  
 3 records are located outside Indiana, the records shall be made available  
 4 to the department at a convenient location within Indiana, or the person  
 5 shall pay the reasonable and necessary expenses for the department or  
 6 the department's representative to examine the records where they are  
 7 maintained. The department may designate comparable officials of the  
 8 state in which the records are located to inspect the records on behalf  
 9 of the department.

10 (4) Upon a person's failure without lawful excuse to obey a  
 11 subpoena or to give testimony and upon reasonable notice by the  
 12 department to all affected persons, the department may apply to any  
 13 civil court with jurisdiction for an order compelling compliance.

14 (5) The department shall not make public:

- 15 (a) the name or identity of a person whose acts or conduct the
- 16 department investigates under this section; or
- 17 (b) the facts discovered in the investigation.

18 However, this subsection does not apply to civil actions or enforcement  
 19 proceedings under this article.

20 (6) To discover violations of this article or to secure information  
 21 necessary for the enforcement of this article, the department may  
 22 investigate any:

- 23 (a) licensee; or
- 24 (b) person that the department suspects to be operating:
  - 25 (i) without a license, when a license is required under this
  - 26 article; or
  - 27 (ii) otherwise in violation of this article.

28 The department has all investigatory and enforcement authority under  
 29 this article that the department has under IC 28-11 with respect to  
 30 financial institutions. If the department conducts an investigation under  
 31 this section, the licensee or other person investigated shall pay all  
 32 reasonably incurred costs of the investigation in accordance with the  
 33 fee schedule adopted under IC 28-11-3-5. **Any costs required to be**  
 34 **paid under this section shall be paid not later than sixty (60) days**  
 35 **after the person being assessed the costs receives a notice from the**  
 36 **department of the costs assessed. The department may impose a**  
 37 **fee, in an amount fixed by the department under IC 28-11-3-5, for**  
 38 **each day the assessed costs are not paid, beginning on the first day**  
 39 **after the sixty (60) day period described in this subsection.**

40 (7) If a creditor contracts with an outside vendor to provide a service  
 41 that would otherwise be undertaken internally by the creditor and be  
 42 subject to the department's routine examination procedures, the person



that provides the service to the creditor shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any creditor that is licensed under this article and that receives services from the person refusing the examination to:

(a) discontinue receiving one (1) or more services from the person; or

(b) otherwise cease conducting business with the person.

SECTION 8. IC 24-4.5-1-102, AS AMENDED BY P.L.137-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) to provide rate ceilings to assure an adequate supply of credit to consumers;

(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;

(d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act and to applicable state and federal laws, rules, regulations, policies, and guidance; and

(g) to make uniform the law, including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule or guidance of the department adopted pursuant to this article.

(4) A reference to a federal law in this article is a reference to the law as in effect December 31, ~~2013~~ **2014**.

(5) This article applies to a transaction if the director determines that the transaction:



- 1 (a) is in substance a disguised consumer credit transaction; or  
 2 (b) involves the application of subterfuge for the purpose of  
 3 avoiding this article.

4 A determination by the director under this paragraph must be in writing  
 5 and shall be delivered to all parties to the transaction. IC 4-21.5-3  
 6 applies to a determination made under this paragraph.

7 (6) The authority of this article remains in effect, whether a licensee,  
 8 an individual, or a person subject to this article acts or claims to act  
 9 under any licensing or registration law of this state, or claims to act  
 10 without such authority.

11 (7) A violation of a state or federal law, regulation, or rule  
 12 applicable to consumer credit transactions is a violation of this article.

13 (8) The department may enforce penalty provisions set forth in 15  
 14 U.S.C. 1640 for violations of disclosure requirements applicable to  
 15 mortgage transactions.

16 SECTION 9. IC 24-4.5-1-202, AS AMENDED BY P.L.27-2012,  
 17 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2015]: Sec. 202. (a) As used in this section, "balloon  
 19 payment", with respect to a mortgage transaction, means any payment  
 20 that:

- 21 (1) the creditor requires the debtor to make at any time during the  
 22 term of the mortgage;  
 23 (2) represents the entire amount of the outstanding balance with  
 24 respect to the mortgage; and  
 25 (3) the entire amount of which is due as of a specified date or at  
 26 the end of a specified period;

27 if the aggregate amount of the minimum periodic payments required  
 28 under the mortgage would not fully amortize the outstanding balance  
 29 by the specified date or at the end of the specified period. The term  
 30 does not include a payment required by a creditor under a due-on-sale  
 31 clause (as defined in 12 U.S.C. 1701j-3(a)) or a payment required by  
 32 a creditor under a provision in the mortgage that permits the creditor  
 33 to accelerate the debt upon the debtor's default or failure to abide by the  
 34 material terms of the mortgage.

35 (b) This article does not apply to the following:

- 36 (1) Extensions of credit to government or governmental agencies  
 37 or instrumentalities.  
 38 (2) The sale of insurance by an insurer, except as otherwise  
 39 provided in the chapter on insurance (IC 24-4.5-4).  
 40 (3) Transactions under public utility, municipal utility, or  
 41 common carrier tariffs if a subdivision or agency of this state or  
 42 of the United States regulates the charges for the services



involved, the charges for delayed payment, and any discount allowed for early payment.

(4) The rates and charges and the disclosure of rates and charges of a licensed pawnbroker established in accordance with a statute or ordinance concerning these matters.

(5) A sale of goods, services, or an interest in land in which the goods, services, or interest in land are purchased primarily for a purpose other than a personal, family, or household purpose.

(6) A loan in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

(7) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(8) An installment agreement for the purchase of home fuels in which a finance charge is not imposed.

(9) Loans made, insured, or guaranteed under a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(10) Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(11) Except for ~~IC 24-4.5-3-502.1(2)~~, **IC 24-4.5-3-502.1(4)**, IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a loan made:

(A) in compliance with the requirements of; and

(B) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from; the Indiana housing and community development authority established by IC 5-20-1-3.

(12) Except for ~~IC 24-4.5-3-502.1(2)~~, **IC 24-4.5-3-502.1(4)**, IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a subordinate lien mortgage transaction made by an entity that exclusively uses funds provided by the United States Department of Housing and Urban Development under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq.).

(13) The United States, any state or local government, or any agency or instrumentality of any governmental entity, including United States government sponsored enterprises.

(14) A bona fide nonprofit organization not operating in a commercial context, as determined by the director, if the following criteria are satisfied:



- 1 (A) Subject to clause (B), the organization originates only one  
 2 (1) or both of the following types of mortgage transactions:  
 3 (i) Zero (0) interest first lien mortgage transactions.  
 4 (ii) Zero (0) interest subordinate lien mortgage transactions.  
 5 (B) The organization does not require, under the terms of the  
 6 mortgage or otherwise, balloon payments with respect to the  
 7 mortgage transactions described in clause (A).  
 8 (C) The organization is exempt from federal income taxation  
 9 under Section 501(c)(3) of the Internal Revenue Code.  
 10 (D) The organization's primary purpose is to serve the public  
 11 by helping low income individuals and families build, repair,  
 12 and purchase housing.  
 13 (E) The organization uses only:  
 14 (i) unpaid volunteers; or  
 15 (ii) employees whose compensation is not based on the  
 16 number or size of any mortgage transactions that the  
 17 employees originate;  
 18 to originate the mortgage transactions described in clause (A).  
 19 (F) The organization does not charge loan origination fees in  
 20 connection with the mortgage transactions described in clause  
 21 (A).  
 22 (15) A bona fide nonprofit organization (as defined in section  
 23 301.5(45) of this chapter) if the following criteria are satisfied:  
 24 (a) For each calendar year that the organization seeks the  
 25 exemption provided by this subdivision, the organization  
 26 certifies, not later than December 31 of the preceding calendar  
 27 year and on a form prescribed by the director and accompanied  
 28 by such documentation as required by the director, that the  
 29 organization is a bona fide nonprofit organization (as defined  
 30 in section 301.5(45) of this chapter).  
 31 (b) The director determines that the organization originates  
 32 only mortgage transactions that are favorable to the debtor. For  
 33 purposes of this clause, a mortgage transaction is favorable to  
 34 the debtor if the director determines that the terms of the  
 35 mortgage transaction are consistent with terms of mortgage  
 36 transactions made in a public or charitable context, rather than  
 37 in a commercial context.  
 38 SECTION 10. IC 24-4.5-2-204 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 204. Deferral Charges  
 40 — (1) With respect to a precomputed consumer credit sale,  
 41 refinancing, or consolidation, the parties before or after default may  
 42 agree in writing to a deferral of all or part of one (1) or more unpaid



1 instalments, and the seller may make and collect a charge not  
 2 exceeding **the lesser of thirty-six percent (36%) per year or** the rate  
 3 previously stated to the buyer pursuant to the provisions on disclosure  
 4 (Part 3) applied to the amount or amounts deferred for the period of  
 5 deferral calculated without regard to differences in lengths of months,  
 6 but proportionately for a part of a month, counting each day as  
 7 one-thirtieth (1/30) of a month. A deferral charge may be collected at  
 8 the time it is assessed or at any time thereafter.

9 (2) The seller, in addition to the deferral charge, may make  
 10 appropriate additional charges (~~24-4.5-2-202~~), **(IC 24-4.5-2-202)**, and  
 11 the amount of these charges which is not paid in cash may be added to  
 12 the amount deferred for the purpose of calculating the deferral charge.

13 (3) The parties may agree in writing at the time of a precomputed  
 14 consumer credit sale, refinancing, or consolidation that if an instalment  
 15 is not paid within ten (10) days after its due date, the seller may  
 16 unilaterally grant a deferral and make charges as provided in this  
 17 section. No deferral charge may be made for a period after the date that  
 18 the seller elects to accelerate the maturity of the agreement.

19 (4) A delinquency charge made by the seller on an instalment may  
 20 not be retained if a deferral charge is made pursuant to this section with  
 21 respect to the period of delinquency.

22 SECTION 11. IC 24-4.5-2-407, AS AMENDED BY P.L.137-2014,  
 23 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2015]: Sec. 407. (1) With respect to a consumer credit sale,  
 25 a seller may take a security interest in the property sold. In addition, a  
 26 seller may take a security interest in goods upon which services are  
 27 performed or in which goods sold are installed or to which they are  
 28 annexed, or in land to which the goods are affixed or which is  
 29 maintained, repaired or improved as a result of the sale of the goods or  
 30 services, if, in the case of a subordinate lien mortgage transaction, the  
 31 debt secured is four thousand dollars (\$4,000) or more, or, in the case  
 32 of a security interest in goods the debt secured is three hundred dollars  
 33 (\$300) or more. Except as provided with respect to cross-collateral  
 34 (IC 24-4.5-2-408), a seller may not otherwise take a security interest in  
 35 property of the buyer to secure the debt arising from a consumer credit  
 36 sale.

37 (2) With respect to a consumer lease, a lessor may not take a  
 38 security interest in property of the lessee to secure the debt arising from  
 39 the lease.

40 (3) A security interest taken in violation of this section is void.

41 (4) The amounts of four thousand dollars (\$4,000) and three  
 42 hundred dollars (\$300) in subsection (1) are subject to change pursuant



to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).  
However, notwithstanding IC 24-4.5-1-106(1), the Reference Base  
Index to be used ~~under this subsection~~ **with respect to the amount of:**

**(a) three hundred dollars (\$300)** is the Index for October 1992;

**and**

**(b) four thousand dollars (\$4,000) is the Index for October 2012.**

SECTION 12. IC 24-4.5-3-204 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 204. Deferral Charges

— (1) With respect to a precomputed consumer loan, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one **(1)** or more unpaid instalments, and the lender may make and collect a charge not exceeding **the lesser of thirty-six percent (36%) per year or** the rate previously stated to the debtor pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to difference in the lengths of months, but proportionally for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The lender, in addition to the deferral charge, may make appropriate additional charges (~~24-4.5-3-202~~); **(IC 24-4.5-3-202)**, and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer loan, refinancing, or consolidation that if an instalment is not paid within ten (10) days after its due date, the lender may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the lender elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the lender on an instalment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

SECTION 13. IC 24-4.5-3-501.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 501.5. (1) If a person licensed or required to be licensed under section 502.1 of this chapter also engages in the loan brokerage business, the person's loan brokerage business is subject to the following sections of the Indiana Code and any rules adopted to implement these sections:**

**(a) IC 23-2-5-9.**

**(b) IC 23-2-5-9.1.**



- (c) IC 23-2-5-15.
- (d) IC 23-2-5-16.
- (e) IC 23-2-5-17.
- (f) IC 23-2-5-18.
- (g) IC 23-2-5-18.5.
- (h) IC 23-2-5-20.
- (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).
- (j) IC 23-2-5-24.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under section 502.1 of this chapter are subject to examination by the department and to the examination fees described in section 503(8)(b) of this chapter. The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

SECTION 14. IC 24-4.5-3-502, AS AMENDED BY P.L.35-2010, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 502. (1) A person that is a:

- (a) depository institution;
- (b) subsidiary that is owned and controlled by a depository institution **and regulated by a federal banking agency;** or
- (c) credit union service organization;

may engage **in Indiana** in the making of consumer loans **(including small loans that are subject to IC 24-4.5-7)** that are not mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 may engage in:

- (a) taking assignments of consumer loans ~~in Indiana;~~ **(including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions;** and
- (b) undertaking **the** direct collection of payments from or **the** enforcement of rights ~~in Indiana~~ against debtors arising from consumer loans **(including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions;**

**in Indiana** without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license under this ~~article~~ **chapter** in order to regularly engage in Indiana in the following actions with respect to consumer loans that are not **small loans (as defined in IC 24-4.5-7-104)** or mortgage transactions:

- (a) The making of consumer loans.
- (b) Taking assignments of consumer loans.





(c) Undertaking **the** direct collection of payments from or **the** enforcement of rights against debtors arising from consumer loans.

(4) A separate license under this **article chapter** is required for each legal entity that engages in Indiana in any activity described in subsection (3). However, a separate license under this **article chapter** is not required for each branch of a legal entity licensed under this **article chapter** to perform an activity described in subsection (3).

(5) Except as otherwise provided in subsections (1) and (2), a separate license under IC 24-4.5-7 is required in order to regularly engage in Indiana in the following actions with respect to small loans (as defined in IC 24-4.5-7-104):

(a) The making of small loans (as defined in IC 24-4.5-7-104).

(b) Taking assignments of small loans (as defined in IC 24-4.5-7-104).

(c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from small loans (as defined in IC 24-4.5-7-104).

A person that seeks licensure under IC 24-4.5-7 in order to regularly engage in Indiana in the actions set forth in this subsection shall apply to the department for that license in the form and manner prescribed by the department, and is subject to the same licensure requirements and procedures as an applicant for a license to make consumer loans (other than small loans or mortgage transactions) under this section.

SECTION 15. IC 24-4.5-3-502.1, AS AMENDED BY P.L.103-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 502.1. ~~(1) Unless a person:~~

~~(a) is a depository institution;~~

~~(b) is a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency;~~

~~(c) is an institution regulated by the Farm Credit Administration;~~  
~~or~~

~~(d) has first obtained; and subsequently retains; a license from the department under this article;~~

the person shall not regularly engage in Indiana as a creditor in subordinate lien mortgage transactions; take assignments in Indiana of subordinate lien mortgage transactions; or undertake in the direct collection of payments from or enforcement of rights against debtors in Indiana arising from subordinate lien mortgage transactions:

(1) A person that is a:

(a) depository institution;



- (b) subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or
- (c) credit union service organization;

may engage in Indiana in the making of subordinate lien mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 or an institution regulated by the Farm Credit Administration may engage in:

- (a) taking assignments of subordinate lien mortgage transactions; and
- (b) undertaking the direct collection of payments from or the enforcement of rights against debtors arising from subordinate lien mortgage transactions;

in Indiana without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license relating to subordinate lien mortgage transactions under this chapter in order to regularly engage in Indiana in the following actions with respect to subordinate lien mortgage transactions:

- (a) The making of subordinate lien mortgage loans.
- (b) Taking assignments of subordinate lien mortgage loans.
- (c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from subordinate lien mortgage loans.

~~(2)~~ (4) Each:

- (a) creditor licensed by the department under this ~~article~~ **chapter to engage in subordinate lien mortgage transactions**; and
- (b) entity that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that:

- (i) employs a licensed mortgage loan originator; or
- (ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage loan originator as an independent agent;

shall register with and maintain a valid unique identifier issued by the NMLSR. Each licensed mortgage loan originator must be employed by, or sponsored under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) and as an independent agent, and associated with, a ~~licensed~~ **creditor licensed under this chapter to engage in subordinate lien mortgage transactions** or an exempt entity described under subdivision (b) in the NMLSR in order to originate loans.

~~(3)~~ (5) Applicants for a license **to engage in subordinate lien**



**mortgage transactions** must apply for a license under this chapter in a form prescribed by the director. Each form:

- (a) must contain content as set forth by rule, instruction, or procedure of the director; and
- (b) may be changed or updated as necessary by the director to carry out the purposes of this article.

~~(4)~~ **(6)** To fulfill the purposes of this article, the director may establish relationships or contracts with the NMLSR or other entities designated by the NMLSR to:

- (a) collect and maintain records; and
- (b) process transaction fees or other fees; related to licensees or other persons subject to this article.

~~(5)~~ **(7)** For the purpose of participating in the NMLSR, the director or the department may:

- (a) waive or modify, in whole or in part, by rule, regulation, or order, any or all of the requirements of this article; and
- (b) establish new requirements as reasonably necessary to participate in the NMLSR.

SECTION 16. IC 24-4.5-3-504, AS AMENDED BY P.L.27-2012, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 504. (1) The department may issue to a person licensed to:

- (a) make consumer loans; or
- (b) engage in consumer credit sales that are mortgage transactions;

an order to show cause why the license should not be revoked or suspended for a period determined by the department.

(2) An order issued under subsection (1) must:

- (a) include:
  - (i) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;
  - (ii) a description of the action contemplated by the department; and
  - (iii) a statement of the facts or conduct supporting the issuance of the order; and
- (b) be accompanied by a notice stating that the licensee is entitled to:
  - (i) a reasonable opportunity to be heard; and
  - (ii) show the licensee's compliance with all lawful requirements for retention of the license;
 at the meeting described in subdivision (a)(i).



(3) After the meeting described in subsection (2)(a)(i), the department may revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

(i) this article or any **applicable** rule, order, or guidance document adopted or issued by the department; or

(ii) any other state or federal laws, rules, or regulations applicable to consumer credit transactions;

(b) the licensee does not meet the licensing qualifications under section 503 of this chapter;

(c) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;

(d) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department; or

(e) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and forthwith notify the licensee of:

(a) the revocation or suspension;

(b) if a suspension has been ordered, the duration of the suspension;

(c) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and

(d) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make consumer loans may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it is in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

(7) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any preexisting lawful contract.



(8) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 17. IC 24-4.5-3-510, AS AMENDED BY P.L.137-2014, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 510. Restrictions on Interest in Land as Security — (1) With respect to a supervised loan in which the principal is four thousand dollars (\$4,000) or less, a lender may not contract for an interest in land as security. A security interest taken in violation of this section is void.

(2) The amount of four thousand dollars (\$4,000) in subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October ~~1992~~: **2012**.

SECTION 18. IC 24-4.5-3-511, AS AMENDED BY P.L.137-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 511. Regular Schedule of Payments; Maximum Loan Term — (1) Supervised loans not made pursuant to a revolving loan account and in which the principal is four thousand dollars (\$4,000) or less are payable in a single instalment or shall be scheduled to be payable in substantially equal instalments that are payable at equal periodic intervals, except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor, and:

(a) over a period of not more than thirty-seven (37) months if the principal is more than three hundred dollars (\$300), or

(b) over a period of not more than twenty-five (25) months if the principal is three hundred dollars (\$300) or less.

(2) The amounts of three hundred dollars (\$300) and four thousand dollars (\$4,000) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used ~~under this subsection~~ **with respect to the amount of:**

**(1) three hundred dollars (\$300) is the Index for October 1992; and**

**(2) four thousand dollars (\$4,000) is the Index for October 2012.**

SECTION 19. IC 24-4.5-5-103, AS AMENDED BY P.L.137-2014, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 103. Restrictions on Deficiency Judgments in



Consumer Credit Sales — (1) This section applies to a consumer credit sale of goods or services.

(2) If the seller repossesses or voluntarily accepts surrender of goods which were the subject of the sale and in which the seller has a security interest, and the cash price of the goods repossessed or surrendered was four thousand dollars (\$4,000) or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale of the goods, and the seller is not obligated to resell the collateral.

(3) If the seller repossesses or voluntarily accepts surrender of goods which were not the subject of the sale but in which the seller has a security interest to secure a debt arising from a sale of goods or services or a combined sale of goods and services and the cash price of the sale was four thousand dollars (\$4,000) or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale.

(4) For the purpose of determining the unpaid balance of consolidated debts or debts pursuant to revolving charge accounts, the allocation of payments to a debt shall be determined in the same manner as provided for determining the amount of debt secured by various security interests (IC 24-4.5-2-409).

(5) The buyer may be liable in damages to the seller if the buyer has wrongfully damaged the collateral or if, after default and demand, the buyer has wrongfully failed to make the collateral available to the seller.

(6) If the seller elects to bring an action against the buyer for a debt arising from a consumer credit sale of goods or services, and under this section the seller would not be entitled to a deficiency judgment if the seller repossessed the collateral, and the seller obtains a judgment:

(a) the seller may not repossess the collateral; and

(b) the collateral is not subject to levy or sale on execution or similar proceedings pursuant to the judgment.

(7) The amounts of four thousand dollars (\$4,000) in subsections (2) and (3) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October ~~1992~~ **2012**.

SECTION 20. IC 24-4.5-6-106, AS AMENDED BY P.L.216-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 106. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of



persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

- (a) Training, operating, and policy manuals.
- (b) Minutes of:
  - (i) management meetings; and
  - (ii) other meetings.
- (c) Other records that the department determines are necessary to perform its investigation or examination.

The department may also administer oaths or affirmations, subpoena witnesses, and compel the attendance of witnesses, including directors, executive officers, managers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this article. The department may also adduce evidence, and require the production of any matter which is relevant to the investigation. The department shall determine the sufficiency of the records maintained and whether the person has made the required information reasonably available. The records pertaining to any transaction subject to this article shall be retained for two (2) years after making the final entry relating to the consumer credit transaction, but in the case of a revolving loan account or revolving charge account, the two (2) years is measured from the date of each entry.

(2) The department's examination and investigatory authority under this article includes the following:

- (a) The authority to require a creditor to refund overcharges resulting from the creditor's noncompliance with the terms of consumer credit sales, consumer leases, or consumer loans.
- (b) The authority to require a creditor to comply with the prepayment penalty provisions set forth in IC 24-4.5-3-209.
- (c) The authority to investigate complaints filed with the department by debtors.

(3) If the department:

- (a) investigates; or
- (b) examines the books and records of;

a person that is subject to IC 24-4.5-6-201, IC 24-4.5-6-202, and IC 24-4.5-6-203, the person shall pay all reasonably incurred costs of the investigation or examination in accordance with the fee schedule adopted by the department under IC 28-11-3-5. However, the person is liable for the costs of an investigation or examination under this subsection only to the extent that the costs exceed the amount of the filing fees paid most recently under IC 24-4.5-6-203. Any costs required to be paid under this ~~subsection~~ **section** shall be paid not later



1 than sixty (60) days after the person receives a notice from the  
 2 department of the costs being assessed. The department may impose a  
 3 fee, in an amount fixed by the department under IC 28-11-3-5, for each  
 4 day that the assessed costs are not paid, beginning on the first day after  
 5 the sixty (60) day period described in this subsection.

6 (4) The department shall be given free access to the records  
 7 wherever located. In making any examination or investigation  
 8 authorized by this article, the director may control access to any  
 9 documents and records of the licensee or person under examination or  
 10 investigation. The director may take possession of the documents and  
 11 records or place a person in exclusive charge of the documents and  
 12 records in the place where the documents are usually kept. During the  
 13 period of control, the licensee or person may not remove or attempt to  
 14 remove any of the documents and records except under a court order  
 15 or with the consent of the director. Unless the director has reasonable  
 16 grounds to believe the documents or records of the licensee or person  
 17 have been, or are, at risk of being altered or destroyed for purposes of  
 18 concealing a violation of this article, the licensee or person being  
 19 examined or investigated is entitled to access to the documents or  
 20 records as necessary to conduct the licensee's or person's ordinary  
 21 business affairs. If the person's records are located outside Indiana, the  
 22 records shall be made available to the department at a convenient  
 23 location within Indiana, or the person shall pay the reasonable and  
 24 necessary expenses for the department or its representative to examine  
 25 them where they are maintained. The department may designate  
 26 comparable officials of the state in which the records are located to  
 27 inspect them on behalf of the department.

28 (5) Upon a person's failure without lawful excuse to obey a  
 29 subpoena or to give testimony and upon reasonable notice to all  
 30 affected persons, the department may apply to any civil court with  
 31 jurisdiction for an order compelling compliance.

32 (6) The department shall not make public the name or identity of a  
 33 person whose acts or conduct the department investigates pursuant to  
 34 this section or the facts disclosed in the investigation, but this  
 35 subsection does not apply to disclosures in actions or enforcement  
 36 proceedings pursuant to this article.

37 (7) To discover violations of this article or to secure information  
 38 necessary for the enforcement of this article, the department may  
 39 investigate any:

40 (a) licensee or registrant; or

41 (b) person that the department suspects to be operating:

42 (i) without a license or registration, when a license or





1 registration is required under this article; or

2 (ii) otherwise in violation of this article.

3 The department has all investigatory and enforcement authority under  
4 this article that the department has under IC 28-11 with respect to  
5 financial institutions. If the department conducts an investigation under  
6 this section, the licensee, registrant, or other person investigated shall  
7 pay all reasonably incurred costs of the investigation in accordance  
8 with the fee schedule adopted under IC 28-11-3-5. **Any costs required**  
9 **to be paid under this section shall be paid not later than sixty (60)**  
10 **days after the person receives a notice from the department of the**  
11 **costs being assessed. The department may impose a fee, in an**  
12 **amount fixed by the department under IC 28-11-3-5, for each day**  
13 **that the assessed costs are not paid, beginning on the first day after**  
14 **the sixty (60) day period described in this subsection.**

15 (8) If a creditor contracts with an outside vendor to provide a service  
16 that would otherwise be undertaken internally by the creditor and be  
17 subject to the department's routine examination procedures, the person  
18 that provides the service to the creditor shall, at the request of the  
19 director, submit to an examination by the department. If the director  
20 determines that an examination under this subsection is necessary or  
21 desirable, the examination may be made at the expense of the person  
22 to be examined. If the person to be examined under this subsection  
23 refuses to permit the examination to be made, the director may order  
24 any creditor that is licensed under this article and that receives services  
25 from the person refusing the examination to:

26 (a) discontinue receiving one (1) or more services from the  
27 person; or

28 (b) otherwise cease conducting business with the person.

29 SECTION 21. IC 24-4.5-7-102, AS AMENDED BY P.L.137-2014,  
30 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2015]: Sec. 102. (1) Except as otherwise provided, all  
32 provisions of this article applying to consumer loans, including  
33 IC 24-4.5-3-502.2, apply to small loans, as defined in this chapter.

34 (2) **A person may not regularly engage in Indiana in any of the**  
35 **following actions unless the department first issues to the person a**  
36 **license under this chapter:**

37 (a) **The making of small loans.**

38 (b) **Taking assignments of small loans.**

39 (c) **Undertaking the direct collection of payments from or the**  
40 **enforcement of rights against debtors arising from small**  
41 **loans.**

42 (3) **Subject to subsection (4), a person that seeks licensure under**



1 this chapter:

2 (1) shall apply to the department for a license in the form and  
3 manner prescribed by the department; and

4 (2) is subject to the same licensure requirements and  
5 procedures as an applicant for a license to make consumer  
6 loans (other than mortgage transactions) under  
7 IC 24-4.5-3-502.

8 (4) A person that seeks to make, take assignments of, or  
9 undertake the direct collection of payments from or the  
10 enforcement of rights against debtors arising from both:

11 (1) small loans under this chapter; and

12 (2) consumer loans (other than mortgage transactions) that  
13 are not small loans;

14 must obtain a separate license from the department for each type  
15 of loan, as described in IC 24-4.5-3-502(5).

16 ~~(2)~~ (5) This chapter applies to:

17 (a) a lender or to any person who facilitates, enables, or acts as a  
18 conduit for any person who is or may be exempt from licensing  
19 under IC 24-4.5-3-502;

20 (b) a bank, savings association, credit union, or other state or  
21 federally regulated financial institution except those that are  
22 specifically exempt regarding limitations on interest rates and  
23 fees; or

24 (c) a person, if the department determines that a transaction is:

25 (i) in substance a disguised loan; or

26 (ii) the application of subterfuge for the purpose of avoiding  
27 this chapter.

28 ~~(3)~~ (6) A loan that:

29 (a) does not qualify as a small loan under section 104 of this  
30 chapter;

31 (b) is for a term shorter than that specified in section 401(1) of  
32 this chapter; or

33 (c) is made in violation of section 201, 401, 402, 404, or 410 of  
34 this chapter;

35 is subject to this article. The department may conform the finance  
36 charge for a loan described in this subsection to the limitations set forth  
37 in IC 24-4.5-3-508.

38 SECTION 22. IC 24-4.5-7-111, AS ADDED BY P.L.57-2006,  
39 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2015]: Sec. 111. "Lender" means a person ~~licensed that~~  
41 **acquires and retains a license issued** by the department of financial  
42 institutions under this chapter to engage in small loans.



SECTION 23. IC 24-4.5-7-401, AS AMENDED BY P.L.217-2007,  
SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2015]: Sec. 401. (1) A small loan may not be made for a term  
of less than fourteen (14) days.

(2) If five (5) consecutive small loans have been made to a borrower  
after the borrower's initial small loan, another small loan may not be  
made to that borrower within seven (7) days after the fifth consecutive  
small loan is paid in full. After the borrower's fifth consecutive small  
loan, the balance must be paid in full.

(3) Subject to subsection (4), whenever a borrower has entered into  
an initial small loan followed by three (3) consecutive small loans, the  
lender shall offer the borrower the option to repay:

(a) the third consecutive small loan; and

(b) subject to subsection (2), any small loan entered into after the  
third consecutive small loan;  
under an extended payment plan. At the time of execution of a small  
loan described in subdivision (a) or (b), the lender shall disclose to the  
borrower the extended payment plan option by providing the borrower  
a written description of the extended payment plan option in a separate  
disclosure document approved by the director.

(4) A lender shall offer an extended payment plan under subsection  
(3) under the following terms and conditions:

(a) A borrower shall be permitted to request an extended payment  
plan at any time during the term of a third or subsequent  
consecutive small loan if the borrower has not defaulted on the  
outstanding small loan.

(b) An extended payment plan must allow the outstanding small  
loan to be paid in at least four (4) equal installments over a period  
of not less than sixty (60) days.

**(c) An agreement for an extended payment plan may not  
require a borrower to pay any amount before the original  
maturity date of the outstanding small loan.**

~~(c)~~ (d) The lender may not assess any fee or charge on a borrower  
for entering into an extended payment plan.

~~(d)~~ (e) An agreement for an extended payment plan must be in  
writing and acknowledged by both the borrower and the lender.

~~(e)~~ (f) A borrower may not enter into another small loan  
transaction while engaged in an extended payment plan.

**(g) A lender may not coerce or require a borrower to pay off  
an outstanding small loan that is eligible for an extended  
payment plan and to subsequently enter into a new small loan  
with the lender if the borrower and lender have not entered**



**into an extended payment plan with respect to the eligible  
outstanding small loan.**

- (5) An agreement for an extended payment plan under subsection  
(3):
- (a) shall be considered an extension of the outstanding small loan;  
and
  - (b) may not be considered a new loan.

SECTION 24. IC 24-7-7-2, AS AMENDED BY THE TECHNICAL  
CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS  
AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:  
Sec. 2. (a) A person subject to this article shall make the books and  
records of the person reasonably available for inspection by the  
department or the department's representative. At a minimum, every  
lessor shall keep a record of all payments remitted by the lessee on a  
rental purchase agreement, including the following:

- (1) The name of the lessee.
- (2) The date of each transaction.
- (3) The total amount of each payment.
- (4) A breakdown of each payment reflecting:
  - (A) each type of charge; and
  - (B) the amount of each type of charge.

The method of maintaining this data is at the discretion of the lessor,  
if hard copies of the required data are readily available. The record  
keeping system of the lessor shall be made available in Indiana for  
examination. The director shall determine the sufficiency of the records  
and whether the lessor has made the required information reasonably  
available.

(b) In administering this article and in order to determine  
compliance with this article, the department or the department's  
representative may examine the books and records of persons subject  
to the article and may make investigations of persons necessary to  
determine compliance. For this purpose, the department may  
administer oaths or affirmations, and, upon the department's own  
motion or upon request of any party, may subpoena witnesses, compel  
their attendance, compel testimony, and require the production of any  
matter that is relevant to the investigation, including the existence,  
description, nature, custody, condition, and location of any books,  
documents, or other tangible things and the identity and location of  
persons having knowledge of relevant facts, or any other matter  
reasonably calculated to lead to the discovery of admissible evidence.

(c) If the person's records are located outside Indiana, the person  
shall, at the person's option, either make them available to the



department at a convenient location in Indiana, or pay the reasonable and necessary expenses for the department or the department's representative to examine them at the place where they are maintained. The department may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the department's behalf.

(d) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the department may apply to a court for an order compelling compliance.

(e) The department may not make public the name or identity of a person whose acts or conduct the department investigates under this section or the facts disclosed in the investigation, but this subsection does not apply to disclosures in actions or enforcement proceedings under this article.

(f) A lessor shall use generally accepted accounting principles and practices in keeping books and records so that the department or the department's representative may determine if the lessor is in compliance with this article or a rule adopted under this article.

(g) A lessor shall keep the lessor's books and records that pertain to a rental purchase agreement for at least two (2) years after the rental purchase agreement has terminated.

(h) To discover violations of this article or to secure information necessary for the enforcement of this article, the department may investigate:

- (1) any person subject to this article; and
- (2) any person that the department suspects to be operating in violation of **this** article.

The department has all investigatory and enforcement authority under this article that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(i) If a lessor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the lessor and be



1 subject to the department's routine examination procedures, the person  
 2 that provides the service to the lessor shall, at the request of the  
 3 director, submit to an examination by the department. If the director  
 4 determines that an examination under this subsection is necessary or  
 5 desirable, the examination may be made at the expense of the person  
 6 to be examined. If the person to be examined under this subsection  
 7 refuses to permit the examination to be made, the director may order  
 8 any lessor that receives services from the person refusing the  
 9 examination to:

- 10 (1) discontinue receiving one (1) or more services from the
- 11 person; or
- 12 (2) otherwise cease conducting business with the person.

13 SECTION 25. IC 28-1-8-0.5 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 0.5. As used in this  
 15 chapter, "corporation" means:

- 16 (1) a bank;
- 17 (2) a trust company;
- 18 (3) a corporate fiduciary;
- 19 (4) a savings bank;
- 20 (5) a savings association; or
- 21 (6) an industrial loan and investment company. ~~that maintains~~  
 22 ~~federal deposit insurance.~~

23 SECTION 26. IC 28-1-11-4, AS AMENDED BY P.L.27-2012,  
 24 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2015]: Sec. 4. (a) Except as otherwise provided in this article,  
 26 the business of dealing in investment securities by any bank or trust  
 27 company is limited to purchasing and selling securities without  
 28 recourse, solely upon the order and for the account of customers and in  
 29 no event for its own account. A bank or trust company may not  
 30 underwrite or guarantee all or any part of any issue of securities other  
 31 than obligations issued or guaranteed by or on behalf of the state or any  
 32 political subdivision of the state or any agency or instrumentality of  
 33 either. A bank or trust company may purchase for its own account and  
 34 sell investment securities under such limitations and restrictions as the  
 35 department prescribes by regulation, rule, policy, or guidance, but in no  
 36 event may the total amount of the investment securities of any one (1)  
 37 obligor or maker, purchased or held by a bank or trust company for its  
 38 own account, exceed at any time ten percent (10%) of the amount of  
 39 the total equity capital of the bank or trust company. The limitations  
 40 imposed by this section do not apply to the direct or indirect obligations  
 41 of the United States or the direct obligations of a United States territory  
 42 or insular possession or of the state of Indiana or any municipal



1 corporation or taxing district in Indiana. A bank or trust company may  
 2 purchase for its own account and sell shares of stock in federal or state  
 3 chartered small business investment companies that have received a  
 4 permit or license to operate under the federal Small Business  
 5 Investment Act (15 U.S.C. 681). However, a bank or trust company  
 6 may not acquire shares in any small business investment company if,  
 7 upon the making of that acquisition, the aggregate amount of shares in  
 8 small business investment companies then held by the bank would  
 9 exceed five percent (5%) of its total equity capital.

10 (b) A bank or trust company may purchase for its own account and  
 11 sell:

12 (1) shares of open-end investment companies the portfolios of  
 13 which consist solely of securities that are eligible for purchase  
 14 and sale by national banking associations; and

15 (2) collateralized obligations that are eligible for purchase and  
 16 sale by national banking associations. However, a bank or trust  
 17 company may purchase for its own account and sell the  
 18 obligations only to the extent that a national banking association  
 19 can purchase and sell those obligations.

20 (c) A bank or trust company may deposit its funds in:

21 (1) a federally chartered savings association; ~~or~~

22 (2) a savings association or other entity organized and operated  
 23 according to federal law or the laws of any state or the District of  
 24 Columbia; **or**

25 **(3) a bank organized and operated according to federal law or**  
 26 **the laws of any state or the District of Columbia;**

27 the accounts of which are insured by the Federal Deposit Insurance  
 28 Corporation.

29 (d) A bank or trust company may not purchase for its own account  
 30 any bond, note, or other evidence of indebtedness that is commonly  
 31 designated as a security that is speculative in character or that has  
 32 speculative characteristics. For the purposes of this subsection, a  
 33 security is speculative or has speculative characteristics if at the time  
 34 of purchase the security:

35 (1) is rated below the first four (4) rating classes by a generally  
 36 recognized security rating service;

37 (2) is in default; or

38 (3) is otherwise considered speculative by the director.

39 (e) A bank or trust company may purchase for its own account a  
 40 security that is not rated by a generally recognized security rating  
 41 service if:

42 (1) the bank or trust company at the time of purchase obtains



1 financial information that is adequate to document the investment  
 2 quality of the security; and

3 (2) the security is not otherwise considered speculative by the  
 4 director.

5 (f) Except as otherwise authorized by this title, a bank or trust  
 6 company may not purchase any share of stock of a corporation that is  
 7 not a subsidiary of that bank or trust company unless the purchase is  
 8 considered expedient to prevent loss from a debt previously contracted  
 9 in good faith. Any shares of stock thus acquired by a bank or trust  
 10 company that would not have been eligible for purchase shall be sold  
 11 and disposed of within six (6) months from the date of acquisition  
 12 unless the director grants an extension of time for the sale and  
 13 disposition.

14 (g) Notwithstanding any other provision of this article, a bank or  
 15 trust company may purchase for its own account shares of stock of a  
 16 banker's bank insured by the Federal Deposit Insurance Corporation or  
 17 a holding company that owns or controls a banker's bank insured by the  
 18 Federal Deposit Insurance Corporation. For the purposes of this  
 19 subsection, a "banker's bank" is a bank (as defined in IC 28-2-14-2):

20 (1) the stock of which is owned exclusively by other banks (as  
 21 defined in IC 28-2-14-2), or by a bank holding company the stock  
 22 of which is owned exclusively by other banks (as defined in  
 23 IC 28-2-14-2); and

24 (2) that is engaged exclusively in providing services to other  
 25 banks (as defined in IC 28-2-14-2), and to their officers, directors,  
 26 and employees.

27 A bank's or trust company's holdings of the stock of an insured banker's  
 28 bank or of a holding company that owns or controls an insured banker's  
 29 bank may not exceed ten percent (10%) of the capital and surplus of  
 30 the bank or trust company. A bank or trust company may not purchase  
 31 the stock of an insured banker's bank or of a holding company that  
 32 owns or controls an insured banker's bank if, after the purchase, the  
 33 bank or trust company would own more than five percent (5%) of any  
 34 class of voting securities of the banker's bank or holding company.

35 (h) Notwithstanding any other provision of this article, a bank or  
 36 trust company may invest in a casualty insurance company organized  
 37 solely for the purpose of insuring banks, trust companies, and bank  
 38 holding companies and their officers and directors from and against  
 39 liabilities, including those covered by bankers' blanket bonds and  
 40 director and officer liability insurance and other public liability  
 41 insurance. The investment must take the form of:

42 (1) the purchase for the bank's or trust company's own account of





1 shares of stock of the casualty insurance company or shares of  
 2 stock of an association of banks organized for the purpose of  
 3 funding the casualty insurance company; or  
 4 (2) loans to such an association of banks.

5 The total investment of any bank or trust company under this  
 6 subsection may not exceed five percent (5%) of the capital and surplus  
 7 of the bank or trust company.

8 (i) Any bank or trust company may establish or acquire a subsidiary  
 9 that engages in:

10 (1) the sale, distribution, or underwriting of securities issued by  
 11 investment companies (as defined in Section 3 of the Investment  
 12 Company Act of 1940 (15 U.S.C. 80a-3); or

13 (2) the underwriting or distribution of securities backed by or  
 14 representing an interest in mortgages.

15 (j) As used in this section, "total equity capital" means unimpaired  
 16 capital stock, unimpaired surplus, unimpaired undivided profits,  
 17 subordinated debt that has been approved by the state or federal  
 18 regulatory agencies, and one hundred percent (100%) of loan reserves.

19 (k) The department may define an investment security by  
 20 department policy or by rule.

21 (l) A bank or trust company may establish a trading account for the  
 22 purchase and resale of securities that are otherwise eligible for  
 23 purchase or resale by the bank or trust company. The trading account  
 24 must comply with the requirements established by policy or rule of the  
 25 department.

26 (m) A bank or trust company that purchases a security for its own  
 27 account shall maintain sufficient records of the security to allow the  
 28 security to be properly identified by the department for examination  
 29 purposes.

30 SECTION 27. IC 28-1-20-4, AS AMENDED BY P.L.90-2008,  
 31 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2015]: Sec. 4. (a) Except as provided in subsections (c), (d),  
 33 (g), and (o), it is unlawful for any person, firm, limited liability  
 34 company, or corporation (other than a bank or trust company, a bank  
 35 holding company, a subsidiary of a bank or trust company, a subsidiary  
 36 of a bank holding company, a subsidiary of a savings bank, or a  
 37 subsidiary of a savings association organized or reorganized under  
 38 IC 28 or statutes in effect at the time of organization or reorganization  
 39 or under the laws of the United States):

40 (1) to use the word, **or a derivation of the word**, "bank", "banc",  
 41 **or** "banco", **or "bankcor"**, as a part of the name or title of the  
 42 person, firm, limited liability company, or corporation **if the use**



1       **of the word would create a substantial likelihood of**  
 2       **misleading the public by implying that the person, firm,**  
 3       **limited liability company, or corporation is a state or**  
 4       **federally chartered bank, trust company, savings bank, or**  
 5       **savings association; or**

6       (2) to advertise or represent the person, firm, limited liability  
 7       company, or corporation to the public:

8           (A) as a bank or trust company or a corporate fiduciary; or

9           (B) as affording the services or performing the duties which by  
 10          law only a bank or trust company or a corporate fiduciary is  
 11          entitled to afford and perform.

12       (b) A financial institution organized under the laws of any state or  
 13       the United States is authorized to do business in Indiana:

14           (1) at its principal office;

15           (2) at any branch office; or

16           (3) otherwise;

17       using a name other than its official entity name if the financial  
 18       institution notifies the department at least ten (10) days before using  
 19       the other name.

20       (c) Notwithstanding the prohibitions of this section, an out-of-state  
 21       financial institution with the word "bank" in its legal name may use the  
 22       word "bank" if the financial institution is insured by the Federal  
 23       Deposit Insurance Corporation or its successor.

24       (d) Notwithstanding subsection (a), a building and loan association  
 25       organized under IC 28-4 (before its repeal) may include in its name or  
 26       title:

27           (1) the words "savings bank"; or

28           (2) the word "bank" if the name or title also includes either the  
 29           words "savings bank" or letters "SB".

30       A building and loan association that includes "savings bank" in its title  
 31       under this section does not by that action become a savings bank for  
 32       purposes of IC 28-6.1.

33       (e) The name or title of a savings bank governed by IC 28-6.1 must  
 34       include the words "savings bank" or the letters "SB".

35       (f) A savings association may include in its name the words  
 36       "building and loan association".

37       (g) Notwithstanding subsection (a), a bank holding company (as  
 38       defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a  
 39       part of its name. However, this subsection does not permit a bank  
 40       holding company to advertise or represent itself to the public as  
 41       affording the services or performing the duties that by law a bank or  
 42       trust company only is entitled to afford and perform.



(h) The department is authorized to investigate the business affairs of any person, firm, limited liability company, or corporation that uses "bank", "banc", or "banco" in its title or holds itself out as a bank, corporate fiduciary, or trust company for the purpose of determining whether the person, firm, limited liability company, or corporation is violating any of the provisions of this article, and, for that purpose, the department and its agents shall have access to any and all of the books, records, papers, and effects of the person, firm, limited liability company, or corporation. In making its examination, the department may examine any person and the partners, officers, members, or agents of the firm, limited liability company, or corporation under oath, subpoena witnesses, and require the production of the books, records, papers, and effects considered necessary. On application of the department, the circuit or superior court of the county in which the person, firm, limited liability company, or corporation maintains a place of business shall, by proper proceedings, enforce the attendance and testimony of witnesses and the production and examination of books, papers, records, and effects.

(i) The department is authorized to exercise the powers under IC 28-11-4 against a person, firm, limited liability company, or corporation that improperly holds itself out as a financial institution.

(j) A person, firm, limited liability company, or corporation who violates this section is subject to a penalty of five hundred dollars (\$500) per day for each and every day during which the violation continues. The penalty imposed shall be recovered in the name of the state on relation of the department and, when recovered, shall be paid into the financial institutions fund established by IC 28-11-2-9.

(k) The word, **or a derivation of the word**, "bank", "banc", **or** "banco", **or "bankcor"** may not be included in the name of a corporate fiduciary **if the inclusion of the word would create a substantial likelihood of misleading the public by implying that the corporate fiduciary is a state or federally chartered bank, trust company, savings bank, or savings association.**

(l) A person, firm, limited liability company, or corporation may not use the name of an existing depository financial institution or holding company of a depository financial institution, or a name confusingly similar to that of an existing depository financial institution or holding company of a depository financial institution, when marketing to or soliciting business from a customer or prospective customer if the reference to the existing depository financial institution or holding company of a depository financial institution is:

(1) without the consent of the existing depository financial



1 institution or holding company of a depository financial  
2 institution; and

3 (2) in a manner that could cause a reasonable person to believe  
4 that the marketing material or solicitation:

5 (A) originated from;

6 (B) is endorsed by; or

7 (C) is in any other way the responsibility of;

8 the existing depository financial institution or holding company of a  
9 depository financial institution.

10 (m) An existing depository financial institution or holding company  
11 of a depository financial institution may, in addition to any other  
12 remedies available under the law, report an alleged violation of  
13 subsection (l) to the department. If the department finds that the  
14 marketing material or solicitation in question is in violation of  
15 subsection (l), the department may direct the person, firm, limited  
16 liability company, or corporation to cease and desist from using that  
17 marketing material or solicitation in Indiana. If that person, firm,  
18 limited liability company, or corporation persists in using the marketing  
19 material or solicitation, the department may impose a civil penalty of  
20 up to fifteen thousand dollars (\$15,000) for each violation. Each  
21 instance in which the marketing material or solicitation is sent to a  
22 customer or prospective customer constitutes a separate violation of  
23 subsection (l).

24 (n) Nothing in subsection (l) or (m) prohibits the use of or reference  
25 to the name of an existing depository financial institution or holding  
26 company of a depository financial institution in marketing materials or  
27 solicitations, if the use or reference does not deceive or confuse a  
28 reasonable person regarding whether the marketing material or  
29 solicitation:

30 (1) originated from;

31 (2) is endorsed by; or

32 (3) is in any other way the responsibility of;

33 the existing depository financial institution or holding company of a  
34 depository financial institution.

35 (o) A person, firm, limited liability company, or corporation may  
36 use the word, **or a derivation of the word**, "bank", "banc", **or** "banco",  
37 **or "bankcor"** if **it the use of the word** would not create a substantial  
38 likelihood of misleading the public by implying that the person, firm,  
39 limited liability company, or corporation is a state or federally  
40 chartered bank, **trust company**, **or** savings bank, **or savings**  
41 **association**.

42 (p) As used in this section, "depository financial institution" has the



1 meaning set forth in IC 28-1-1-6.

2 (q) The department may adopt rules under IC 4-22-2 to implement  
3 this section.

4 SECTION 28. IC 28-1-29-4, AS AMENDED BY P.L.27-2012,  
5 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2015]: Sec. 4. (a) The department may issue to a licensee an  
7 order to show cause why the licensee's license should not be revoked  
8 or suspended for a period determined by the department.

9 (b) An order issued under subsection (a) must:

10 (1) include:

11 (A) a statement of the place, date, and time for a meeting with  
12 the department, which date may not be less than ten (10) days  
13 from the date of the order;

14 (B) a description of the action contemplated by the  
15 department; and

16 (C) a statement of the facts or conduct supporting the issuance  
17 of the order; and

18 (2) be accompanied by a notice stating that the licensee is entitled  
19 to:

20 (A) a reasonable opportunity to be heard; and

21 (B) show the licensee's compliance with all lawful  
22 requirements for retention of the license;

23 at the meeting described in subdivision (1)(A).

24 (c) After the meeting described in subsection (b)(1)(A), the  
25 department may revoke or suspend the license if the department finds  
26 that:

27 (1) the licensee has repeatedly and willfully violated:

28 (A) this chapter or any **applicable** rule, order, or guidance  
29 document adopted or issued by the department; or

30 (B) any other state or federal law, regulation, or rule applicable  
31 to debt management companies;

32 (2) the licensee does not meet the licensing qualifications set forth  
33 in section 5 of this chapter;

34 (3) the licensee obtained the license for the benefit of, or on  
35 behalf of, a person who does not qualify for the license;

36 (4) the licensee knowingly or intentionally made material  
37 misrepresentations to, or concealed material information from, the  
38 department; or

39 (5) facts or conditions exist that, had they existed at the time the  
40 licensee applied for the license, would have been grounds for the  
41 department to deny the issuance of the license.

42 (d) Whenever the department revokes or suspends a license, the



department shall enter an order to that effect and notify the licensee of:

- (1) the revocation or suspension;
- (2) if a suspension has been ordered, the duration of the suspension;
- (3) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- (4) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(e) Any person holding a license to operate a debt management company may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this chapter.

(f) If the director determines it to be in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (e).

(g) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any existing agreement or contract.

(h) If the director of the department has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 29. IC 28-1-29-8, AS AMENDED BY P.L.216-2013, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) An agreement between a licensee and a debtor must:

- (1) be in a written form;
- (2) be dated and signed by the licensee and the debtor;
- (3) include the name of the debtor and the address where the debtor resides;
- (4) include the name, business address, and telephone number of the licensee;
- (5) be delivered to the debtor immediately upon formation of the agreement; and
- (6) disclose the following:
  - (A) The services to be provided.
  - (B) The amount or method of determining the amount of all



- 1 fees **and charges**, individually itemized, to be paid by the
- 2 debtor.
- 3 (C) The schedule of payments to be made by or on behalf of
- 4 the debtor, including the amount of each payment, the date on
- 5 which each payment is due, and an estimate of the date of the
- 6 final payment.
- 7 (D) If a plan provides for regular periodic payments to
- 8 creditors:
- 9 (i) each creditor of the debtor to which payment will be
- 10 made, the amount owed to each creditor, and any
- 11 concessions the licensee reasonably believes each creditor
- 12 will offer; and
- 13 (ii) the schedule of expected payments to each creditor,
- 14 including the amount of each payment and the date on which
- 15 the payment will be made.
- 16 (E) Each creditor that the licensee believes will not participate
- 17 in the plan and to which the licensee will not direct payment.
- 18 (F) The manner in which the licensee will comply with the
- 19 licensee's obligations under section 9(k) of this chapter.
- 20 (G) A statement that:
- 21 (i) the licensee may terminate the agreement for good cause,
- 22 upon return of unexpended money of the debtor; and
- 23 (ii) the debtor may contact the department with any
- 24 questions or complaints regarding the licensee.
- 25 (H) The address, telephone number, and Internet address or
- 26 web site of the department.
- 27 (b) For purposes of subsection (a)(5), delivery of an electronic
- 28 record occurs when:
- 29 (1) the record is made available in a format in which the debtor
- 30 may retrieve, save, and print the record; and
- 31 (2) the debtor is notified that the record is available.
- 32 (c) An agreement must provide that:
- 33 (1) the debtor has a right to terminate the agreement at any time
- 34 without penalty, notwithstanding the close-out fee as permitted by
- 35 section 8.3(d) of this chapter, or obligation, by giving the licensee
- 36 written or electronic notice, in which event:
- 37 (A) the licensee shall refund all unexpended money that the
- 38 licensee or the licensee's agent has received from or on behalf
- 39 of the debtor for the reduction or satisfaction of the debtor's
- 40 debt; and
- 41 (B) all powers of attorney granted by the debtor to the licensee
- 42 are revoked and ineffective;



(2) the debtor authorizes any bank insured by the Federal Deposit Insurance Corporation in which the licensee or the licensee's agent has established a trust account to disclose to the department any financial records relating to the trust account;

(3) the licensee shall notify the debtor within five (5) days after learning of a creditor's final decision to reject or withdraw from a plan under the agreement; and

(4) the notice under subdivision (3) must include:

(A) the identity of the creditor; and

(B) a statement that the debtor has the right to modify or terminate the agreement.

(d) All creditors included in the plan must be notified of the **contract** debtor's and licensee's relationship.

(e) A licensee shall give to the contract debtor a dated receipt for each payment, at the time of the payment, unless the payment is made by check, money order, or automated clearinghouse withdrawal as authorized by the contract debtor.

(f) A licensee shall, upon cancellation by a contract debtor of the agreement, notify immediately in writing all creditors in the debt management plan of the cancellation by the contract debtor.

(g) A licensee may not enter into an agreement with a debtor unless a thorough, written budget analysis of the debtor indicates that the debtor can reasonably meet the payments required under a proposed plan. The following must be included in the budget analysis:

(1) Documentation and verification of all income considered. All income verification must be dated not more than sixty (60) days before the completion of the budget analysis.

(2) Monthly living expense figures, which must be reasonable for the particular family size and part of Indiana. If expenditure reductions are part of the planned budget for the debtor, details of the expected savings must be documented in the debtor's file and set forth in the budget provided to the debtor.

(3) Documentation and verification, by a current credit bureau report, current debtor account statements, or direct documentation from the creditor, of monthly debt payments and balances to be paid outside the plan.

(4) Documentation and verification, by a current credit bureau report, current debtor account statements, or direct documentation from the creditor, of the monthly debt payments and current balances to be paid through the plan.

(5) The date of the budget analysis and the signature of the debtor.

(h) A licensee may not enter into an agreement with a **contract**





debtor for a period longer than sixty (60) months.

(i) A licensee may provide services under this chapter in the same place of business in which another business is operating, or from which other products or services are sold, if the director issues a written determination that:

(1) the operation of the other business; or

(2) the sale of other products and services;

from the location in question is not contrary to the best interests of the licensee's contract debtors.

(j) A licensee without a physical location in Indiana may:

(1) solicit sales of; and

(2) sell;

additional products and services to Indiana residents if the director issues a written determination that the proposed solicitation or sale is not contrary to the best interests of contract debtors.

(k) A licensee shall maintain a toll free communication system, staffed at a level that reasonably permits a contract debtor to speak to a counselor, debt specialist, or customer service representative, as appropriate, during ordinary business hours.

(l) A debt management company shall act in good faith in all matters under this chapter.

SECTION 30. IC 28-1-29-8.3, AS AMENDED BY P.L.216-2013, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8.3. (a) Except as otherwise permitted by this section, a licensee may not:

(1) impose, directly or indirectly, a fee or other charge on a debtor; or

(2) receive money from or on behalf of a debtor for debt management services.

(b) A licensee may not impose charges or receive payment for debt management services until:

(1) the licensee and the debtor have agreed upon a plan and have signed an agreement that complies with sections 8 and 9.5 of this chapter; and

(2) at least one (1) payment has been made to a creditor under the plan.

All creditors must be notified of the debtor's and licensee's relationship.

(c) If a debtor assents to a plan, the licensee may charge the following:

(1) A set up fee of not more than fifty dollars (\$50) for consultation, obtaining a credit report, and setting up an account.

Acceptance of a plan payment by a creditor constitutes agreement



1 by the creditor to the plan. A set up fee under this subdivision  
 2 may not be collected until the debtor, or the licensee on behalf of  
 3 the debtor, has made at least one (1) payment to a creditor under  
 4 the plan.

5 (2) Subject to subsection (d), a monthly service fee of the lesser  
 6 of the following:

7 (A) Not more than fifteen percent (15%) of the amount the  
 8 licensee receives from the contract debtor for payment to the  
 9 contract debtor's creditors ~~for~~ **during** the applicable month.  
 10 However, if the amount calculated under this clause is less  
 11 than five dollars (\$5) for a particular month, the licensee may  
 12 charge a monthly service fee of five dollars (\$5) for that  
 13 month.

14 (B) Seventy-five dollars (\$75).

15 The monthly service fee under this subdivision may be charged  
 16 for any one (1) month or part of a month. The amount of a set up  
 17 fee under subdivision (1) may not be included in the calculation  
 18 of the monthly service fee.

19 (d) Upon cancellation by a contract debtor or termination of  
 20 payments by a contract debtor, a licensee may withhold for the  
 21 licensee's own benefit not more than one hundred dollars (\$100), which  
 22 may be accrued as a close-out fee.

23 (e) A licensee may not charge a contract debtor more than one (1)  
 24 set up fee or one (1) close-out fee unless the contract debtor leaves the  
 25 services of the licensee for more than six (6) months.

26 (f) With respect to any additional charge not specifically provided  
 27 for in this section, the licensee must submit a written explanation of the  
 28 charge to the department indicating how the charge would be assessed  
 29 and the value or benefit conferred on the contract debtor in connection  
 30 with the charge. Supporting documents may be required by the  
 31 department. The department shall determine whether the charge:

32 (1) would be imposed in relation to some benefit conferred on the  
 33 consumer; and

34 (2) is reasonable in relation to the benefit conferred.

35 An additional charge is not permitted unless approved by the  
 36 department.

37 (g) For purposes of this chapter, the terms of an agreement  
 38 commence on the date on which the agreement is made.

39 (h) A licensee may assess a charge of not more than twenty-five  
 40 dollars (\$25) for each return by a bank or other depository institution  
 41 of a dishonored check, negotiable order of withdrawal, or share draft  
 42 issued by the contract debtor.



(i) Any fee charged by the licensee to the debtor under this section for services rendered by the licensee, other than the fees described under subsection (e), is not considered a debt owed by the debtor to the licensee.

SECTION 31. IC 28-5-1-8, AS AMENDED BY P.L.158-2013, SECTION 300, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Except as otherwise provided in subsections (c), (d), and (e), the total obligation of any person, firm, limited liability company, or corporation to any industrial loan and investment company shall at no time exceed fifteen percent (15%) of the amount of the capital and surplus of the company.

(b) The term "obligations" as used in this section means the direct liability of the maker or acceptor of paper discounted with or sold to any such company, and the liability of the indorser, drawer, or guarantor who obtains a loan from, or discounts paper with or sells paper under the person's guaranty to any such company, and, in the case of obligations of a copartnership or association, includes only those obligations of the several members thereof directly related to the copartnership or association, and, in the case of obligations of a corporation, includes all obligations of all subsidiaries thereof in which such corporation owns or controls a majority interest.

(c) Subsection (a) does not apply to the following:

(1) Obligations arising out of the discount of commercial or business paper actually owned by the person, firm, limited liability company, or corporation negotiating such paper.

(2) Obligations of the United States or any instrumentality thereof or of this state, or of any municipal corporation or taxing district thereof, or obligations fully insured by the federal housing administrator as to principal; however, the department may, under such rules and regulations as it may prescribe, limit the total amount that may be invested by any industrial loan and investment company in any one (1) obligation or in any class of obligations described in subdivisions (1) and (2).

(3) Obligations arising out of the agreement to repurchase, or the guaranty or endorsement of, retail installment sales contracts by a retail seller or subsequent assignee. However, this subdivision does not apply in any case where such company purchasing such paper does not become the absolute owner, or in any case where installment payments are collected by a prior owner of the paper, or by a retail seller of the goods represented thereby.

(4) Obligations arising out of the agreement to repurchase, or the guaranty or indorsement of, title-retaining real estate installment



1 sales contracts by a seller, or subsequent assignees; however, this  
 2 subdivision does not apply in any case where such company  
 3 purchasing such contracts does not become the absolute owner,  
 4 or in any case where installment payments are collected by a prior  
 5 owner of the contracts or by a seller of such contracts.

6 (5) Obligations of the borrower arising out of loans in which the  
 7 borrower has no personal liability but which are secured by  
 8 bailment leases or the rentals due and to become due thereunder;  
 9 and the rights of the lessor in said leases and the property being  
 10 leased thereunder, and which loans are to be repaid out of said  
 11 rentals due and to become due under said leases; or obligations  
 12 arising out of the guaranty, endorsement, or assignment of  
 13 bailment leases or the rentals due and to become due thereunder  
 14 by the lessor. However, this subdivision does not apply in any  
 15 such case where such company does not have the right or does not  
 16 actually collect the rentals due or to become due thereunder.

17 (d) Obligations to an industrial loan and investment company of any  
 18 subsidiary or subsidiaries of the company engaged in business for the  
 19 purpose provided in section 6(a)(15) of this chapter shall at no time  
 20 exceed in the case of one (1) subsidiary ten percent (10%) of the capital  
 21 and surplus of the company or, in the case of more than one (1)  
 22 subsidiary, in the aggregate twenty percent (20%) of the capital and  
 23 surplus of the company unless in either case the department shall  
 24 approve a larger percentage.

25 (e) Obligations to an industrial loan and investment company of any  
 26 subsidiary or subsidiaries of the company engaged in business for the  
 27 purpose provided in section 6(a)(14) of this chapter shall at no time  
 28 exceed in the aggregate thirty percent (30%) of the amount of the  
 29 capital and surplus of the company or such larger sum as the  
 30 department may approve.

31 (f) Except as otherwise provided in this subsection and in section 9  
 32 of this chapter, no loan shall be made, directly or indirectly, by any  
 33 industrial loan and investment company, to any active executive  
 34 officer, agent, or employee thereof. The board of directors or executive  
 35 committee of any industrial loan and investment company may, by  
 36 resolution, duly entered in the records of the proceedings of the board  
 37 or committee, authorize loans to or extend lines of credit to:

38 (1) any active executive officer, agent, or employee of such  
 39 industrial loan and investment company in any amount not  
 40 exceeding, at any one (1) time outstanding:

41 (A) ten thousand dollars (\$10,000); plus

42 (B) ten thousand dollars (\$10,000) which may be used for the



1           sole purpose of educating the children of such active executive  
2           officer, agent, or employee as hereinafter provided; or  
3           (2) directors not holding any office in such industrial loan and  
4           investment company, and not acting as an agent or employee  
5           thereof.

6           The board or committee may likewise authorize loans to or extend lines  
7           of credit to firms, limited liability companies, or corporations in which  
8           active executive officers, agents or employees or directors may be  
9           partners, members, or stockholders, but the total amount of the  
10          obligations of all such active executive officers, agents, or employees,  
11          and directors, or other firms, limited liability companies, or  
12          corporations in which such active executive officers, agents,  
13          employees, and directors are partners, members, or stockholders, shall  
14          not at any time exceed fifteen percent (15%) of the total resources of  
15          the industrial loan and investment company at the time any such loan  
16          or extension of credit is made. Loans and lines of credit permitted by  
17          this subsection shall be made only on authorization by a majority of all  
18          of the directors or members of the executive committee of such  
19          industrial loan and investment company, and by the affirmative vote of  
20          all directors or members of the executive committee present at the  
21          meeting, and such authorization may be general and need not be given  
22          for each loan or line of credit extended. However, such general  
23          authorization shall be voted upon at least annually. When a line of  
24          credit has been extended pursuant to this subsection to any such active  
25          executive officer, agent, or employee or to any such director, or to any  
26          firm, corporation, limited liability company, or partnership in which an  
27          active executive officer, agent, employee, or director may be a partner,  
28          member, or stockholder, any notes or other instruments evidencing an  
29          indebtedness to the industrial loan and investment company, and any  
30          renewals or extensions thereof, need not be authorized as otherwise  
31          required by this subsection if such loan, or any renewal or any  
32          extension thereof, is within the terms of the authorization of the line of  
33          credit theretofore extended by the directors or executive committee to  
34          such active executive officer, agent, or employee, or to such director,  
35          or to any firm, corporation, limited liability company, or partnership in  
36          which any active executive officer, agent, employee, or director may be  
37          a partner, member or stockholder. The department, under such general  
38          rules and regulations as it may prescribe, which shall apply to all  
39          industrial loan and investment companies alike, may require full  
40          collateral security for all loans of the types permitted by this subsection  
41          and, for the purpose of providing that such security may be adequate,  
42          may specify the types thereof that may be pledged. Subject to section



9 of this chapter, the limitations of this subsection shall not apply to a loan by an industrial loan and investment company to an active executive officer, agent, or employee thereof made upon the security of real estate whereupon such active executive officer, agent, or employee maintains the person's actual residence. The term "actual residence" includes a two (2) family dwelling unit if one (1) of such units is occupied by the active executive officer, agent, or employee of the industrial loan and investment company.

(g) An officer or director of any industrial loan and investment company who knowingly violates subsection (f) commits a Level 4 felony.

**(h) For purposes of any lending limits set forth in this section with respect to an industrial loan and investment company, the total loans and extensions of credit by an industrial loan and investment company includes any credit exposure to a person arising from a derivative transaction (as defined in 12 U.S.C. 84(b)(3)) between the industrial loan and investment company and the person.**

SECTION 32. IC 28-7-1-17, AS AMENDED BY P.L.27-2012, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 17. (a) Every loan application shall be submitted on a form approved by the board of directors. ~~When making an application, a member shall state the security offered.~~ Loans may be dispersed upon written approval by a majority of the credit committee or a loan officer. If the credit committee or loan officer fails to approve an application for a loan, the applicant may appeal to the board of directors, ~~providing if~~ such appeal is authorized by the bylaws.

(b) Loans to members may be made only under the following terms and conditions:

(1) All loans shall be evidenced by notes signed by the borrowing member.

(2) Except as otherwise provided in this section, the terms of any loan to a member with a maturity of more than six (6) months shall provide for principal and interest payments that will amortize the obligation in full within the terms of the loan contract. If the income of the borrowing member is seasonal, the terms of the loan contract may provide for seasonal amortization.

(3) Loans may be made upon the security of improved or unimproved real estate. Except as otherwise specified in this section, such loans must be secured by a first lien upon real estate prior to all other liens, except for taxes and assessments not delinquent, and may be made with repayment terms other than as



provided in subdivision (2). The credit union loan folder for all real estate mortgage loans shall include the following:

- (A) The loan application.
- (B) The mortgage instrument.
- (C) The note.
- (D) The disclosure statement.
- (E) The documentation of property insurance.
- (F) For the real estate for which the loan is made, a written appraisal, which must be performed by a state licensed or certified appraiser designated by the board of directors if the amount of the loan is at least two hundred fifty thousand dollars (\$250,000).
- ~~(G) The attorney's opinion of titles or a certificate of title insurance on the real estate upon which the mortgage loan is made.~~

(4) Loans made upon security of real estate are subject to the following restrictions:

- (A) Real estate loans in which no principal amortization is required shall provide for the payment of interest at least annually and shall mature within five (5) years of the date of the loan unless extended and shall not exceed fifty percent (50%) of the fair cash value of the real estate used as security.
- (B) Real estate loans on improved real estate, except for variable rate mortgage loans and rollover mortgage loans provided for in subdivision (5), shall require substantially equal payments at successive intervals of not more than one (1) year, shall mature within thirty (30) years, and shall not exceed one hundred percent (100%) of the fair cash value of the real estate used as security.
- (C) Real estate loans on unimproved real estate may be made. The terms of the loan shall:
  - (i) require substantially equal payments of interest and principal at successive intervals of one (1) year or less;
  - (ii) mature within ten (10) years; and
  - (iii) not exceed eighty-five percent (85%) of the fair cash value of the real estate used as security.
- (D) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed one hundred percent (100%) of the fair cash value of the real estate after such loan is made. Repayment terms shall be in accordance with subdivision (2).



- 1 (E) Real estate loans may be made for the construction of  
 2 improvements to real property. Funds borrowed may be  
 3 advanced as work on the improvements progresses.  
 4 Repayment terms must comply with subdivision (2).
- 5 (5) Subject to the limitations of subdivision (3), variable rate  
 6 mortgage loans and rollover mortgage loans may be made under  
 7 the same limitations and rights provided state chartered savings  
 8 associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or  
 9 federal credit unions.
- 10 (6) As used in this subdivision, "originating lender" means the  
 11 participating lender with which the member contracts. A credit  
 12 union may participate with other state and federal depository  
 13 financial institutions (as defined in IC 28-1-1-6) or credit union  
 14 service organizations in making loans to credit union members  
 15 and may sell a participating interest in any of its loans under  
 16 written participation loan policies established by the board of  
 17 directors. However, the credit union may not sell more than ninety  
 18 percent (90%) of the principal of participating loans outstanding  
 19 at the time of sale. A participating credit union that is not the  
 20 originating lender may participate only in loans made to the credit  
 21 union's own members or to members of another participating state  
 22 or federal credit union. A master participation agreement must be  
 23 properly executed. The agreement must include provisions for  
 24 identifying, either through documents incorporated by reference  
 25 or directly in the agreement, the participation loan or loans before  
 26 the sale of the loans.
- 27 (7) Notwithstanding subdivisions (1) through (6), a credit union  
 28 may make any of the following:
- 29 (A) Any loan that may be made by a federal credit union.  
 30 However, IC 24-4.5 applies to any loan that is:
- 31 (i) made under this clause; and  
 32 (ii) within the scope of IC 24-4.5.
- 33 Any provision of federal law that is in conflict with IC 24-4.5  
 34 does not apply to a loan made under this clause.
- 35 (B) Subject to subdivision (3), any alternative mortgage loan  
 36 (as defined in IC 28-15-11-2) that may be made by a savings  
 37 association (as defined in IC 28-15-1-11) under IC 28-15-11.  
 38 A loan made under this clause by a credit union is subject to  
 39 the same terms, conditions, exceptions, and limitations that  
 40 apply to an alternative mortgage loan made by a savings  
 41 association under IC 28-15-11.
- 42 (8) A credit union may make a loan under either:





1 (A) subdivisions (2) through (6); or  
 2 (B) subdivision (7);  
 3 but not both. A credit union shall make an initial determination as  
 4 to whether to make a loan under subdivisions (2) through (6) or  
 5 under subdivision (7). If the credit union determines that a loan or  
 6 category of loans is to be made under subdivision (7), the written  
 7 loan policies of the credit union must include that determination.  
 8 A credit union may not combine the terms and conditions that  
 9 apply to a loan made under subdivisions (2) through (6) with the  
 10 terms and conditions that apply to a loan made under subdivision  
 11 (7) to make a loan not expressly described and authorized either  
 12 under subdivisions (2) through (6) or under subdivision (7).

13 (c) Nothing in this section prevents any credit union from taking an  
 14 indemnifying or second mortgage on real estate as additional security.

15 SECTION 33. IC 28-7-1-18, AS AMENDED BY P.L.137-2014,  
 16 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2015]: Sec. 18. (a) The supervisory committee shall cause the  
 18 share and loan accounts of the members to be verified with the records  
 19 of the treasurer at least each biennium. **A verification under this**  
 20 **subsection shall be performed using one (1) of the following**  
 21 **methods:**

22 **(1) A verification of one hundred percent (100%) of the share**  
 23 **and loan accounts of all members.**

24 **(2) A verification of share and loan accounts in accordance**  
 25 **with the requirements of the National Credit Union**  
 26 **Administration set forth in 12 CFR 715.8.**

27 (b) The supervisory committee shall supervise the acts of the board  
 28 of directors, credit committee, and officers.

29 (c) By a majority vote, the supervisory committee may call a  
 30 meeting of the shareholders to consider any violation of this chapter,  
 31 or of the bylaws, or any practice of the credit union which, in the  
 32 opinion of the committee is unsafe and unauthorized.

33 (d) The supervisory committee shall fill vacancies in its own  
 34 number until the next annual meeting of the members.

35 (e) At the close of the audit period, the supervisory committee shall  
 36 make or cause to be made a thorough audit of the credit union for each  
 37 audit period and shall make a full report to the directors. The audit  
 38 report shall be issued not later than one hundred twenty (120) days  
 39 following the close of the audit period. Tapes, work papers, schedules,  
 40 and evidence of verification of accounts shall be retained until the next  
 41 examination by the department. A summary of the report shall be read  
 42 at the annual meeting and shall be filed and preserved with the records



1 of the credit union.

2 (f) A credit union with assets of at least five million dollars  
3 (\$5,000,000) shall have an annual audit performed by an outside  
4 professional accounting firm. The department may require a  
5 professional outside audit to be performed upon any credit union if the  
6 department questions the safety and soundness of the credit union.

7 (g) Minutes of every meeting of the supervisory committee shall be  
8 kept and maintained.

9 SECTION 34. IC 28-7-1-24, AS AMENDED BY P.L.35-2010,  
10 SECTION 163, IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2015]: Sec. 24. (a) All entrance charges shall,  
12 after payment of the organization expenses, be known as reserve  
13 income, and shall be added to the regular reserve of the credit union.  
14 At the close of the dividend period, there shall be set apart to the  
15 regular reserve ten percent (10%) of gross income until the regular  
16 reserve shall equal seven and one-half percent (7 1/2%) of the total of  
17 outstanding loans, then five percent (5%) of gross income until the  
18 regular reserve shall equal ten percent (10%) of the total of outstanding  
19 loans. Whenever the regular reserve falls below ten percent (10%) or  
20 seven and one-half percent (7 1/2%) of the total of outstanding loans,  
21 it shall be replenished by regular contributions to maintain the reserve  
22 goals of seven and one-half percent (7 1/2%) or ten percent (10%). The  
23 regular reserve shall be held to meet contingencies and shall not be  
24 distributed to the members except upon dissolution of the credit union.

25 (b) A credit union may have an undivided profits account. The  
26 undivided profits account may be transferred to the regular reserve.

27 (c) The department may, by rule, revise the formula prescribed by  
28 this section. A revised formula must be prudent and must reasonably  
29 be expected to protect the credit unions.

30 (d) Financial statements of credit unions must provide for full and  
31 fair disclosure of all assets, liabilities, and members' equity, including  
32 such allowance for loan loss accounts necessary to present fairly the  
33 financial position, and all income and expenses necessary to present  
34 fairly the results of operation for the period concerned.

35 (e) The maintenance of an allowance for loan losses and investment  
36 or other losses does not exempt a credit union from the requirement set  
37 forth in subsection (a) or regulation CU-2. The totals of the regular  
38 reserve, the allowance for loan losses account, and the allowance for  
39 investment losses shall be combined for determining the percentage of  
40 gross income to be transferred to the regular reserve.

41 (f) Loan losses of a credit union must be charged against the  
42 allowance for loan loss. Adjustments to the allowance for loan losses



shall be made before the distribution of any dividend so that the allowance for loan loss represents the value of loans and anticipated losses resulting from:

- (1) uncollectible loans, notes, and contracts receivable, including any uncollectible accrued interest receivable thereon;
- (2) assets acquired in liquidation of loans; and
- (3) loans purchased from other credit unions.

(g) Adjustments to the allowance for loan losses must be recorded in the expense account "provision for loan losses".

(h) If the balance of the allowance for loan losses is considered to be in excess of the amount needed to meet the full and fair disclosure requirements, the excess amount must be transferred to the regular reserve account or deducted from the provision for loan loss expense account.

SECTION 35. IC 28-7-1-24.1 IS REPEALED [EFFECTIVE JULY 1, 2015]. See: 24.1: (a) Notwithstanding section 24(a) of this chapter as it applies to the regular reserve formula, a credit union that:

- (1) has only share accounts that are insured by an agency of the federal government, the state, or an insuring entity that is approved by the department to insure credit union shares;
- (2) has assets of five hundred thousand dollars (\$500,000) or more; and
- (3) has been in operation for more than four (4) years;

may maintain reserves in accordance with this section:

(b) For purposes of this section, "risk assets" means all assets except the following:

- (1) Cash on hand.
- (2) Deposits or shares in federally or state insured banks, savings and loan associations, and credit unions.
- (3) Investments that are direct or indirect obligations of the United States government or its agencies.
- (4) Loans to other credit unions.
- (5) Student loans insured under the Higher Education Act (20 U.S.C. 1071 et seq.) or similar state insurance programs.
- (6) Loans insured under the National Housing Act (12 U.S.C. 1703) by the Federal Housing Authority.
- (7) Credit union mutual funds authorized by the Indiana Credit Union Act under IC 28-7-1-9(3)(f).
- (8) Prepaid expenses.
- (9) Accrued interest on nonrisk investments.
- (10) Furniture and equipment.
- (11) Land and buildings.



(12) Loans fully secured by a pledge of shares in the lending credit union; equal to and maintained to at least the amount of loan outstanding:

(13) Loans that are purchased from liquidating credit unions and guaranteed by an insuring agency of the federal government; the state; or an agency approved by the department to insure credit union share accounts:

(c) At the end of each accounting period, the gross income shall be determined. Based on the amount of gross income, ten percent (10%) of the gross income shall be set aside, as a regular reserve; until the reserve shall equal four percent (4%) of total risk assets; and then five percent (5%) of the gross income shall be set aside; until the reserve equals six percent (6%) of total risk assets:

(d) Except for the method of calculating the regular reserve formula; all other provisions of section 24 of this chapter pertaining to entrance fees and charges; requirements of a special reserve for delinquent loans; and waiver of such special reserve; apply to credit unions that have reserves that are calculated under this section:

SECTION 36. IC 28-7-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 29. Any credit union organized or reorganized under the laws of Indiana or the United States may convert from a state charter to a federal charter or from a federal charter to a state charter as follows:

(1) A federally chartered credit union may apply for a state charter by observing the following procedures:

(A) The board of directors shall pass a resolution that the federal charter be canceled when and if a state charter is applied for and issued to the credit union by the department of financial institutions.

(B) Written notice of the resolution shall be sent to each member at least thirty (30) days prior to the meeting in which the resolution is to be submitted to the members.

(C) An affirmative majority vote of the members present at the meeting shall be required to effect the conversion from federal to state charter, provided a quorum is present at the meeting.

(D) Certified copies of the minutes of the proceedings of the meeting of the members shall be filed with both the National Credit Union Administration and the department.

(E) ~~Within thirty (30) days after receiving the certified copies of the minutes;~~ An examination of the financial condition of the credit union shall be made by the department. The cost of the examination shall be paid by the credit union.



(F) Within thirty (30) days after the completion of the examination, the department shall report to the credit union the results of its examination and supply the National Credit Union Administration with a copy of the examination report.

(G) If it receives a satisfactory report of the examination, the credit union must within thirty (30) days file its amended articles of incorporation and amended bylaws pursuant to this chapter with the secretary of state, and copies of the amended articles and amended bylaws must be directed to the department and the National Credit Union Administration.

(H) Officers, directors, and committee members shall retain their respective offices for the unexpired terms existing prior to the conversion, subject to the provisions of this chapter.

(I) The newly chartered credit union shall have all of the rights and privileges in and to all of the assets of the prior existing credit union and shall assume and be responsible for all of the obligations imposed while operating under the federal charter.

(2) A state chartered credit union may be converted into a federally chartered credit union by complying with the following requirements:

(A) The board must adopt and approve by a majority of the directors a resolution of conversion. The proposition for such conversion shall first be approved by a majority of the directors of the state credit union.

(B) The board must notify the membership either in person or by mail of the membership meeting at which the resolution of conversion will be acted upon. The notice must be mailed not more than thirty (30) and not less than seven (7) days before the meeting.

(C) The resolution must be approved by a majority of those voting, either in person or by absentee ballot, at the membership meeting called by the board.

(D) The results of the vote, verified by the affidavits of the chairperson or vice chairperson and the secretary, shall be filed with the department within ten (10) days after the vote is taken.

(E) If the proposition for conversion is approved, the credit union shall within ninety (90) days take the action necessary to make it a federal credit union. Within ten (10) days after receipt of the federal charter, the credit union shall file with the department a copy of the charter. Upon such filing, and after the credit union has notified the office of the secretary of



1 state that the conversion is concluded, the credit union shall  
 2 cease to be a state credit union.

3 SECTION 37. IC 28-7-5-9, AS AMENDED BY P.L.89-2011,  
 4 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2015]: Sec. 9. (a) **As used in this section, "branch location"**  
 6 **means a location that:**

- 7 (1) **is maintained by a person licensed or required to be**  
 8 **licensed under this chapter;**
- 9 (2) **is located somewhere other than the person's main office**  
 10 **location; and**
- 11 (3) **does not constitute a separate legal entity from, or a**  
 12 **subsidiary of, the person.**

13 (b) Except in a transaction approved under section 9.1 of this  
 14 chapter, a license ~~shall~~ **is not be** transferable or assignable. ~~More than~~  
 15 **Subject to section 10 of this chapter, one (1) place of business or**  
 16 **more branch locations** may be maintained under the same license.

17 SECTION 38. IC 28-7-5-13, AS AMENDED BY P.L.27-2012,  
 18 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2015]: Sec. 13. (a) The department may issue to a licensee an  
 20 order to show cause why the licensee's license should not be revoked  
 21 or suspended for a period determined by the department.

- 22 (b) An order issued under subsection (a) must:
- 23 (1) include:
  - 24 (A) a statement of the place, date, and time for a meeting with
  - 25 the department, which date may not be less than ten (10) days
  - 26 from the date of the order;
  - 27 (B) a description of the action contemplated by the
  - 28 department; and
  - 29 (C) a statement of the facts or conduct supporting the issuance
  - 30 of the order; and

- 31 (2) be accompanied by a notice stating that the licensee is entitled
- 32 to:
  - 33 (A) a reasonable opportunity to be heard; and
  - 34 (B) show the licensee's compliance with all lawful
  - 35 requirements for retention of the license;
  - 36 at the meeting described in subdivision (1)(A).

37 (c) After the meeting described in subsection (b)(1)(A), the  
 38 department may revoke or suspend the license if the department finds  
 39 that:

- 40 (1) the licensee has repeatedly and willfully violated:
  - 41 (A) this chapter or any **applicable** rule, order, or guidance
  - 42 document adopted or issued by the department; or



- 1 (B) any other state or federal law, regulation, or rule applicable
- 2 to the business of a pawnbroker;
- 3 (2) the licensee does not meet the licensing qualifications set forth
- 4 in this chapter;
- 5 (3) the licensee obtained the license for the benefit of, or on
- 6 behalf of, a person who does not qualify for the license;
- 7 (4) the licensee knowingly or intentionally made material
- 8 misrepresentations to, or concealed material information from, the
- 9 department; or
- 10 (5) facts or conditions exist that, had they existed at the time the
- 11 licensee applied for the license, would have been grounds for the
- 12 department to deny the issuance of the license.
- 13 (d) Whenever the department revokes or suspends a license, the
- 14 department shall enter an order to that effect and notify the licensee of:
- 15 (1) the revocation or suspension;
- 16 (2) if a suspension has been ordered, the duration of the
- 17 suspension;
- 18 (3) the procedure for appealing the revocation or suspension
- 19 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- 20 (4) any other terms and conditions that apply to the revocation or
- 21 suspension.
- 22 Not later than five (5) days after the entry of the order, the department
- 23 shall deliver to the licensee a copy of the order and the findings
- 24 supporting the order.
- 25 (e) Any person holding a license to operate as a pawnbroker may
- 26 surrender the license by complying with section 10.1 of this chapter.
- 27 However, a surrender of a license under section 10.1 of this chapter
- 28 does not affect the person's liability for acts previously committed and
- 29 coming within the scope of this chapter.
- 30 (f) If the director determines it to be in the public interest, the
- 31 director may pursue the revocation of a license of a licensee that has
- 32 surrendered the license under section 10.1 of this chapter.
- 33 (g) If a person's license is revoked, suspended, or surrendered, the
- 34 revocation, suspension, or surrender does not impair or affect any
- 35 obligation owed by any person under any existing contract, pledge, or
- 36 pawn ticket.
- 37 (h) If the director of the department has just cause to believe an
- 38 emergency exists from which it is necessary to protect the interests of
- 39 the public, the director may proceed with the revocation of a license
- 40 through an emergency or another temporary order under IC 4-21.5-4.
- 41 SECTION 39. IC 28-7-5-16, AS AMENDED BY P.L.137-2014,
- 42 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]: Sec. 16. (a) The licensee shall keep and use in the licensee's business such books, accounts, and records as will enable the department to determine whether the licensee is complying with this chapter and with the rules adopted by the department under this chapter. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business transacted in Indiana may be readily separated and distinguished from the business of the licensee transacted elsewhere and from any other business in which the licensee may be engaged. To determine whether the licensee is complying with this chapter and with rules adopted by the department under this chapter, the department may examine the books, accounts, and records required to be kept by the licensee under this subsection. If the department examines the books, accounts, and records of the licensee under this subsection, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this subsection is delinquent. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

- (1) Date of bill of sale.
- (2) Amount of consideration.
- (3) Name of pawnbroker.
- (4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.





(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(c) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(d) If a pawnbroker, in the conduct of the business, purchases precious metal (as defined in IC 24-4-19-6) from a seller, the pawnbroker shall, for at least ten (10) calendar days after the date the pawnbroker purchases the precious metal, retain the precious metal:

(1) at the pawnbroker's permanent place of business where the pawnbroker purchased the precious metal; and

(2) separate from other precious metal.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables.

(f) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 40. IC 28-8-4-38, AS AMENDED BY P.L.137-2014, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 38. ~~(a)~~ A licensee may renew a license by complying with the following:

(1) Filing with the director or the director's designee the annual renewal in the form that is prescribed by the director and sent by the director to each licensee not later than December 31 of each



year. The renewal must include the following, which, except for the financial statements described in clause (A), must be filed not later than December 31:

(A) Either:

(i) a copy of the licensee's most recent audited consolidated annual financial statements, including a balance sheet, a statement of income or loss, a statement of changes in ~~shareholder's~~ **shareholder** equity, and a statement of changes in financial position; or

(ii) if the licensee is a wholly owned subsidiary, the parent corporation's or parent organization's most recent consolidated audited annual financial statements or the parent corporation's or parent organization's most recent Form 10K report filed with the Securities and Exchange Commission, along with the licensee's unaudited annual financial statements.

The audited financial statements required to be submitted under this clause must be prepared by an independent certified public accountant authorized to do business in the United States in accordance with AICPA Statements on Standards for Accounting and Review Services (SSARS) and must be filed with the director or the director's designee not later than one hundred twenty (120) days after the close of the calendar or fiscal year covered by the statements.

(B) The number of payment instruments sold by the licensee in Indiana, the dollar amount of those instruments, and the dollar amount of outstanding payment instruments sold by the licensee calculated from the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days before the renewal date.

(C) Material changes to the information submitted by the licensee on its original application or as part of a renewal that have not been reported previously to the director on any other report or renewal required to be filed under this chapter.

(D) A list of the licensee's permissible investments.

(E) A list of the locations within Indiana at which business regulated by this chapter will be conducted by either the licensee or its authorized delegate, including information concerning any business, other than the business of money transmission under this chapter, that will be conducted at each identified location, as required under section 24(10) of this



- chapter.
- (2) Paying the annual renewal fee described under section 37 of this chapter.
- (b) A licensee that:
- (1) does not:
- (A) file:
- (i) a renewal; or
- (ii) any financial statements required by subsection (a)(1)(A);
- by the renewal filing deadline set by the director; or
- (B) pay the renewal fee by December 31 of each year; and
- (2) has not been granted an extension of time by the department to meet the requirements described in subdivision (1);
- shall be notified by the department, in writing, that a hearing will be scheduled at which the licensee will be required to show cause why its license should not be suspended pending compliance with these requirements. If after the hearing the license is not suspended, the department shall require a daily late fee beginning with the date the renewal, the financial statements, or the annual renewal fee is required by this chapter, in an amount fixed by the department under IC 28-11-3-5.
- (c) The director may, for good cause shown, waive any requirement of this section.
- SECTION 41. IC 28-8-4-41, AS AMENDED BY P.L.137-2014, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 41. (a) The director may conduct an annual onsite examination of a licensee or an authorized delegate of a licensee.
- (b) If the director determines that a reasonable belief exists that a person is operating without a valid license or in violation of this chapter, the director has the authority to investigate and examine the records of that person. The person examined must pay the reasonably incurred costs of the examination.
- (c) Except as provided in section 42(a)(2) of this chapter, the director must give the licensee forty-five (45) days written notice before conducting an onsite examination.
- (d) If the director determines, based on the licensee's financial statements and past history of operations in Indiana, that an onsite examination is unnecessary, the director may waive the onsite examination.
- (e) If the director concludes that an onsite examination of a licensee is necessary, the licensee shall pay all reasonably incurred costs of such examination in accordance with the fee schedule adopted under



1 IC 28-11-3-5. A fee established by the department under IC 28-11-3-5  
 2 may be charged for each day a fee under this section is delinquent. **Any**  
 3 **costs required to be paid under this section shall be paid not later**  
 4 **than sixty (60) days after the person receives a notice from the**  
 5 **department of the costs being assessed. The department may**  
 6 **impose a fee, in an amount fixed by the department under**  
 7 **IC 28-11-3-5, for each day that the assessed costs are not paid,**  
 8 **beginning on the first day after the sixty (60) day period described**  
 9 **in this subsection.**

10 (f) An onsite examination may be conducted in conjunction with  
 11 examinations to be performed by representatives of agencies of another  
 12 state or states. In lieu of an onsite examination, a director may accept  
 13 the examination report of an agency of another state, or a report  
 14 prepared by an independent accounting firm. A report accepted under  
 15 this subsection shall be considered, for all purposes, to be an official  
 16 report of the director.

17 (g) To discover violations of this chapter or to secure information  
 18 necessary for the enforcement of this chapter, the department may  
 19 investigate any:

20 (1) licensee; or

21 (2) person that the department suspects to be operating:

22 (A) without a license, when a license is required under this  
 23 chapter; or

24 (B) otherwise in violation of this chapter.

25 The department has all investigatory and enforcement authority under  
 26 this chapter that the department has under IC 28-11 with respect to  
 27 financial institutions. If the department conducts an investigation under  
 28 this section, the licensee or other person investigated shall pay all  
 29 reasonably incurred costs of the investigation in accordance with the  
 30 fee schedule adopted under IC 28-11-3-5. **Any costs required to be**  
 31 **paid under this section shall be paid not later than sixty (60) days**  
 32 **after the person receives a notice from the department of the costs**  
 33 **being assessed. The department may impose a fee, in an amount**  
 34 **fixed by the department under IC 28-11-3-5, for each day that the**  
 35 **assessed costs are not paid, beginning on the first day after the**  
 36 **sixty (60) day period described in this subsection.**

37 (h) If a licensee contracts with an outside vendor to provide a  
 38 service that would otherwise be undertaken internally by the licensee  
 39 and be subject to the department's routine examination procedures, the  
 40 person that provides the service to the licensee shall, at the request of  
 41 the director, submit to an examination by the department. If the director  
 42 determines that an examination under this subsection is necessary or



desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

- (1) discontinue receiving one (1) or more services from the person; or
- (2) otherwise cease conducting business with the person.

SECTION 42. IC 28-8-4-48, AS AMENDED BY P.L.27-2012, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 48. (a) The director may issue to a licensee an order to show cause why the licensee's license should not be revoked or suspended for a period determined by the department.

(b) An order issued under subsection (a) must:

(1) include:

- (A) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;
- (B) a description of the action contemplated by the department; and
- (C) a statement of the facts or conduct supporting the issuance of the order; and

(2) be accompanied by a notice stating that the licensee is entitled to:

- (A) a reasonable opportunity to be heard; and
  - (B) show the licensee's compliance with all lawful requirements for retention of the license;
- at the meeting described in subdivision (1)(A).

(c) After the meeting described in subsection (b)(1)(A), the department may revoke or suspend the license if the department finds that:

- (1) the licensee has repeatedly and willfully violated:
  - (A) this chapter or any **applicable** rule, order, or guidance document adopted or issued by the department; or
  - (B) any other state or federal law, regulation, or rule applicable to the business of money transmission;
- (2) the licensee does not meet the licensing qualifications set forth in this chapter;
- (3) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;
- (4) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the



department; or

(5) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(d) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

(1) the revocation or suspension;

(2) if a suspension has been ordered, the duration of the suspension;

(3) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and

(4) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(e) Any person holding a license to engage in the business of money transmission may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this chapter.

(f) If the director determines it to be in the public interest, the director may pursue the revocation of a license of a licensee that has relinquished the license under subsection (e).

(g) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any existing lawful contract.

(h) If the director of the department has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 43. IC 28-8-5-18.4, AS AMENDED BY P.L.35-2010, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18.4. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, the licensee, or any individual described in section 11(b)(2) of this chapter, has been convicted of or pleaded guilty ~~or not to contend~~ to a felony under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 11(b)(2)(D) of this chapter:

(1) not later than thirty (30) days after the licensee or individual



described in section 11(b)(2) of this chapter has been convicted of or pleaded guilty ~~or not to contend~~ to the felony; or (2) if the licensee's next license renewal fee under section 15 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 15 of this chapter.

SECTION 44. IC 28-8-5-19, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 19. (a) The department may examine the books, accounts, and records of a licensee and may make investigations to determine compliance.

(b) If the department examines the books, accounts, and records of a licensee, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this section is delinquent. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(c) To discover violations of this chapter or to secure information necessary for the enforcement of this chapter, the department may investigate any:

- (1) licensee; or
- (2) person that the department suspects to be operating:
  - (A) without a license, when a license is required under this chapter; or
  - (B) otherwise in violation of **this** chapter.

The department has all investigatory and enforcement authority under this chapter that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee or other person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the**



1 **assessed costs are not paid, beginning on the first day after the**  
 2 **sixty (60) day period described in this subsection.**

3 (d) If a licensee contracts with an outside vendor to provide a  
 4 service that would otherwise be undertaken internally by the licensee  
 5 and be subject to the department's routine examination procedures, the  
 6 person that provides the service to the licensee shall, at the request of  
 7 the director, submit to an examination by the department. If the director  
 8 determines that an examination under this subsection is necessary or  
 9 desirable, the examination may be made at the expense of the person  
 10 to be examined. If the person to be examined under this subsection  
 11 refuses to permit the examination to be made, the director may order  
 12 any licensee that receives services from the person refusing the  
 13 examination to:

- 14 (1) discontinue receiving one (1) or more services from the
- 15 person; or
- 16 (2) otherwise cease conducting business with the person.

17 SECTION 45. IC 28-8-5-22, AS AMENDED BY P.L.27-2012,  
 18 SECTION 105, IS AMENDED TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The department may issue  
 20 to a licensee an order to show cause why the licensee's license should  
 21 not be revoked or suspended for a period determined by the  
 22 department.

23 (b) An order issued under subsection (a) must:

24 (1) include:

- 25 (A) a statement of the place, date, and time for a meeting with
- 26 the department, which date may not be less than ten (10) days
- 27 from the date of the order;
- 28 (B) a description of the action contemplated by the
- 29 department; and
- 30 (C) a statement of the facts or conduct supporting the issuance
- 31 of the order; and

32 (2) be accompanied by a notice stating that the licensee is entitled  
 33 to:

- 34 (A) a reasonable opportunity to be heard; and
- 35 (B) show the licensee's compliance with all lawful
- 36 requirements for retention of the license;
- 37 at the meeting described in subdivision (1)(A).

38 (c) After the meeting described in subsection (b)(1)(A), the  
 39 department may revoke or suspend the license if the department finds  
 40 that:

- 41 (1) the licensee has repeatedly and willfully violated:
- 42 (A) this chapter or any **applicable** rule, order, or guidance





- 1 document adopted or issued by the department; or
- 2 (B) any other state or federal law, regulation, or rule applicable
- 3 to the business of cashing checks for consideration;
- 4 (2) the licensee does not meet the licensing qualifications set forth
- 5 in this chapter;
- 6 (3) the licensee obtained the license for the benefit of, or on
- 7 behalf of, a person who does not qualify for the license;
- 8 (4) the licensee knowingly or intentionally made material
- 9 misrepresentations to, or concealed material information from, the
- 10 department; or
- 11 (5) facts or conditions exist that, had they existed at the time the
- 12 licensee applied for the license, would have been grounds for the
- 13 department to deny the issuance of the license.
- 14 (d) Whenever the department revokes or suspends a license, the
- 15 department shall enter an order to that effect and notify the licensee of:
- 16 (1) the revocation or suspension;
- 17 (2) if a suspension has been ordered, the duration of the
- 18 suspension;
- 19 (3) the procedure for appealing the revocation or suspension
- 20 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- 21 (4) any other terms and conditions that apply to the revocation or
- 22 suspension.
- 23 Not later than five (5) days after the entry of the order, the department
- 24 shall deliver to the licensee a copy of the order and the findings
- 25 supporting the order.
- 26 (e) Any person holding a license to engage in the business of
- 27 cashing checks for consideration may relinquish the license by
- 28 notifying the department in writing of the relinquishment. However, a
- 29 relinquishment under this subsection does not affect the person's
- 30 liability for acts previously committed and coming within the scope of
- 31 this chapter.
- 32 (f) If the director determines it to be in the public interest, the
- 33 director may pursue the revocation of a license of a licensee that has
- 34 relinquished the license under subsection (e).
- 35 (g) If a person's license is revoked, suspended, or relinquished, the
- 36 revocation, suspension, or relinquishment does not impair or affect any
- 37 obligation owed by any person under any existing lawful contract.
- 38 (h) If the director of the department has just cause to believe an
- 39 emergency exists from which it is necessary to protect the interests of
- 40 the public, the director may proceed with the revocation of a license
- 41 through an emergency or another temporary order under IC 4-21.5-4.
- 42 **SECTION 46. IC 28-10-1-1, AS AMENDED BY P.L.137-2014,**



1 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2015]: Sec. 1. A reference to a federal law or federal  
3 regulation in this title is a reference to the law or regulation as in effect  
4 December 31, ~~2013~~ **2014**.

